THE OAK RIDGE MUNICIPAL CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

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<u>CITY OF OAK RIDGE, TENNESSEE</u>

MAYOR

Warren L. Gooch

MAYOR PROTEM

Rick Chinn, Jr.

COUNCIL MEMBERS

Kelly Callison Jim Dodson Derrick Hammond Charles J. Hope, Jr. Ellen D. Smith

CITY MANAGER

Mark S. Watson

CITY ATTORNEY

Kenneth R. Krushenski

CITY CLERK

Mary Beth Hickman

PREFACE

The Oak Ridge Municipal Code contains the codification and revision of the ordinances of the City of Oak Ridge, 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 Linda Dean, the MTAS Sr. Word Processing Specialist who did all the typing on this project, and Dianna Habib, Administrative Services Assistant, is gratefully acknowledged.

> Steve Lobertini Codification Consultant

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

ARTICLE II

Section 11. Form of ordinance.

Any action of council having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under this Charter, shall be done only by ordinance. Each ordinance shall relate to a single subject, which shall be expressed in a title that contains a summary of its contents. Each ordinance shall be approved as to form and legality by the city attorney, and upon adoption shall be further identified by a number. The enacting clause of each ordinance shall be: "Be it ordained by the Council of the City of Oak Ridge, Tennessee." Other actions may be accomplished by resolutions or motions. Each resolution or ordinance shall be in written form before being introduced.

Section 12. Passage, preservation and publication of ordinances.

Each ordinance, before being adopted, shall be read at least by title at two meetings not less than one (1) week apart, and shall take effect ten (10) days after its adoption, except that, where an emergency exists and the public safety and welfare requires it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by a majority of the members of the council on two (2) readings on successive days. At least the title of each ordinance, except an emergency ordinance, shall be published in the official city newspaper at least one (1) week before its adoption and within ten (10) days after its adoption, either separately or as part of the published proceedings of the council. The newspaper publication shall include locations where the ordinance is available for public review. The entire ordinance shall be published on the city's website at least one (1) week before its adoption and shall remain on the website for a minimum of 30 days after its adoption. The ordinance shall be available at the public library and at the office of the city clerk, and upon adoption shall become a permanent record in the office of the city clerk. Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsection, or subsections in their amended form. An ordinance may be repealed by reference to its number and title only and publication of the ordinance may be similarly limited.

All ordinances and their amendments shall be recorded by the city clerk in a book to be known as the "ordinance book," and it shall be the duty of the mayor and city clerk to authenticate such records by their official signatures. A separate record shall be maintained for resolutions. The original copies of all ordinances, resolutions, and minutes of City Council meetings shall be filed and preserved by the city clerk.

If any portion of an ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or application, provided such remaining portions are not determined by the court to be inoperable, and to this end ordinances are declared to be severable.

TITLE 1

GENERAL ADMINISTRATION

CHAPTER

- 1. CODE OF ORDINANCES--GENERAL PROVISIONS.
- 2. MISCELLANEOUS.

CHAPTER 1

CODE OF ORDINANCES--GENERAL PROVISIONS¹

SECTION

- 1-101. How code designated and cited.
- 1-102. Definitions and rules of construction.
- 1-103. Catchlines of sections.
- 1-104. Code as evidence.
- 1-105. Rules and regulations for administration and enforcement of code.
- 1-106. Annexations and city limits.
- 1-107. General penalty; continuing violations.
- 1-108. Severability of parts of code.
- 1-109. Correction of errors.

1-101. <u>How code designated and cited</u>. The ordinances embraced in the following chapters and sections shall constitute and be designated as the Code of Ordinances, City of Oak Ridge, Tennessee, and may be so cited. The code may also be cited as the "Oak Ridge City Code." (1969 Code, § 1-1)

1-102. <u>Definitions and rules of construction</u>. In the construction of this code and of all ordinances, the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the city council or the context clearly requires otherwise.

(1) "City." The words "the city" or "this city" shall mean the City of Oak Ridge, Tennessee.

(2) "City council." The words "city council" or "council" shall mean the City Council of the City of Oak Ridge, Tennessee.

(3) "City manager." The term "city manager" shall mean the City Manager of the City of Oak Ridge or the city manager's authorized representative.

¹Charter reference

Codification of ordinances: art. II, § 13.

(4) "Computation of time." The time within which an act is to be done shall be computed by excluding the first and including the last day, and if the last day is Sunday or a legal holiday, that shall be excluded.

(5) "Gender." Words importing the masculine gender shall include the feminine and neuter.

(6) "Joint authority." All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(7) "Month." The word "month" shall mean a calendar month.

(8) "Number." Words used in the singular include the plural and the plural includes the singular number.

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

(10) "Officers", "boards," "departments," etc. Whenever any officer, board, department or other agency is referred to by title, such reference shall be construed as if followed by the words "of the City of Oak Ridge, Tennessee," unless indicated to the contrary.

(11) "Or," "and." "Or" may be read "and," and "and" may be read "or" if the sense requires it.

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

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

(14) Personal property." Personal property includes every species of property except real property, as herein defined.

(15) "Preceding," "following." The words "preceding" and "following" shall mean next before and next after, respectively.

(16) "Property." The word "property" shall include real and personal property.

(17) "Real property." Real property shall include lands, tenements and hereditaments.

(18) "Sidewalk." The word "sidewalk" shall mean any portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

(19) "Signature or subscription" includes a mark when the person cannot write.

(20) "State." The words "the state" or "this state" shall be construed as meaning and referring to the State of Tennessee.

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

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

(23) "Tense." Words used in the past or present tense include the future as well as the past and present.

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

(25) "Year." The word "year" shall mean calendar year. (1969 Code, § 1-2)

1-103. <u>Catchlines of sections</u>. The catchlines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted. (1969 Code, § 1-3)

1-104. <u>Code as evidence</u>. Any printed copy of this code certified by the city clerk shall be competent evidence in all courts and legally established tribunals as to the matters contained herein. $(1969 \text{ Code}, \S 1-4)$

1-105. <u>Rules and regulations for administration and enforcement</u> of code. The city manager is hereby authorized to promulgate rules and regulations for the administration and enforcement of the provisions of this code, including, but not limited to, rules and regulations prescribing procedures for the issuance, suspension or revocation of licenses and permits required by this code; provided, however, that such rules and regulations shall be consistent with the provisions of this code and, in the event of any conflict, the code provisions shall govern. A copy of all such rules and regulations shall be on file in the city manager's office and the city clerk's office. (1969 Code, § 1-5)

1-106. <u>Annexations and city limits</u>. Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of any ordinance annexing territory to the city, and all such ordinances and the territorial limits of the city, as existing on the date of the adoption of this code, are hereby recognized as continuing in full force and effect. (1969 Code, § 1-6)

1-107. <u>General penalty: continuing violations</u>. 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). (1969 Code, § 1-7, modified)

1-108. <u>Severability of parts of code</u>. It is hereby declared to be the intention of the city council that the sections, paragraphs, sentences, clauses, and words of this code are severable, and if any word, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the city council without the incorporation in this code of any such unconstitutional word, clause, sentence, paragraph or section. (1969 Code, \S 1-8)

1-109. <u>Correction of errors</u>. The city manager or the city manager's authorized representative, with the concurrence of the city attorney, may make or have made the correction of typographical or numbering errors in an ordinance or sections of this code, and may make or have made changes in the numbering sequence of ordinances or code sections when necessitated or occasioned by the amendments thereto. (1969 Code, § 1-9)

MISCELLANEOUS

SECTION

- 1-201. Administrative organization of the city.
- 1-202. Time and place of council meetings.
- 1-203. Fees for city documents, labor and material generally.

1-201. <u>Administrative organization of the city</u>.¹ An administrative organization is hereby established for the city under the direction of the city manager and subject to the city manager's full direction and control providing staff assistance on matters of administrative, judicial, and legislative services, and further consisting of the following divisions and departments:

(1) General government division to include the office of the city manager, the office of the city clerk, and the legal department.

- (2) Community development department.
- (3) Public works department.
- (4) Electric department.
- (5) Fire department.
- (6) Recreation and parks department.
- (7) Police department.
- (8) Library department.
- (9) Economic development department.
- (10) Administrative services division to include:
 - (a) Data services department.
 - (b) Finance department.
 - (c) Personnel department.

All such divisions and departments shall be operated in accordance with administrative regulations issued by the city manager. (Ord. #1-97, Jan. 1997, modified)

1-202. <u>Time and place of council meetings</u>.² The city council shall hold regular meetings in Oak Ridge at least once monthly. Increased frequency, time of day, and place of its meetings shall be established by resolution. (1969 Code, § 2-3, modified)

¹Charter reference Administrative organization: art. V, § 5.

²Charter references

- Quorum of council: art. II, § 4.
- Regular meetings of council: art. II, § 1.

1-203. Fees for city documents, labor and material generally.

(1) The city may furnish copies of documents and labor and materials at actual cost, which shall be determined by the city manager, for the following items:

(a) Building, gas, electrical, and plumbing codes.

(b) Maps and plats.

(c) Code of ordinances and reprints, plus any supplements or additions.

(d) Fines for overdue library books, lost materials, special charges for other library services.

(e) Data processing, machine usage, labor, and supplies.

(f) Copies of public records and documents.

(g) Reproduction of accident reports.

(h) Special police duty.

(i) Any other service or material the city may perform or supply that will not interfere or hamper regular municipal functions, as determined by the city manager.

(2) Fees authorized in the preceding subsection shall be filed with the city clerk and made available for public inspection at reasonable hours. Before any predetermined fee may be levied or amended, it must be published in a local newspaper of general circulation at least five (5) days before it shall become effective.

(3) Fees authorized by this section shall be in addition to any and all other fees levied by any other section of this code, and shall not be limited to those services and materials as set forth in this section.

(4) Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of any fee established in accord with this section, and all such fees are hereby recognized as continuing in full force and effect. (1969 Code, § 2-6)

TITLE 2

BOARDS AND COMMISSIONS, ETC.¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. ENVIRONMENTAL QUALITY ADVISORY BOARD.
- 3. TREE BOARD.

CHAPTER 1

MISCELLANEOUS

SECTION

2-101. Membership to boards and commissions; residency required.

2-101. <u>Membership to boards and commissions; residency</u> <u>required</u>. To be eligible for membership to all boards and commissions of the city, the individual shall be a resident of the city. The residency requirement is hereby waived for the three (3) designated local hotel/motel establishments' membership positions on the Oak Ridge Convention and Visitors Bureau Board of Directors, who shall not be entitled to an officer position on the board of directors unless such member is also an Oak Ridge resident.

(1) To be eligible for membership to all boards and commissions of the city, the individual shall be a resident of the city.

(2) The residency requirement is hereby waived for the following:

(a) The three (3) designated local hotel/motel establishments' membership positions on the Oak Ridge Convention and Visitors Bureau Board of Directors, who shall not be entitled to an officer position on the board of directors unless such member is also an Oak Ridge resident.

(b) In the event no qualified resident applies for a vacancy on the trade licensing board, the vacancy may be filled by a non-resident applicant provided such applicant maintains an office in Oak Ridge and possesses a current Oak Ridge business license. The non-resident applicant must meet all other requirements for membership on the board. (1969 Code, § 2-7, as amended by Ord. #12-11, Aug. 2011 and Ord. #6-2018, April 2018)

¹Municipal code reference

Board of electrical examiners: title 12, chapter 4.

Board of plumbing examiners: title 12, chapter 8.

Equalization board: title 5, chapter 3.

Personnel advisory board: title 4, chapter 2.

ENVIRONMENTAL QUALITY ADVISORY BOARD¹

SECTION

- 2-201. Definition.
- 2-202. Created; composition.
- 2-203. Terms of members.
- 2-204. Designation and term of chairperson and vice-chairperson.
- 2-205. Compensation.
- 2-206. Functions.
- 2-207. Meetings; quorum.
- 2-208. Powers.
- 2-209. Availability of city facilities and personnel to assist the board..
- 2-210. Attendance policy.
- 2-211. Deleted.

2-201. <u>Definition</u>. As used in this chapter, the term board shall mean the environmental quality advisory board created by this chapter. (1969 Code, \S 2-101, as replaced by Ord. #14-2014, Oct. 2014)

2-202. <u>Created: composition</u>. There is hereby created an environmental quality advisory board for the city consisting of twelve (12) members who shall be appointed by the city council. Two (2) members of the board shall be high school students. All members shall have one (1) vote except the high school students shall share one (1) vote, either from a consensus if both are present at the meeting or individually if only one (1) student is present. If no consensus is possible, then no vote shall be recorded for the students. For clarification purposes, the board has eleven (11) possible total votes due to the student members sharing one (1) vote. (Ord. #15-98, May 1998, § 1, as replaced by Ord. #14-2014, Oct. 2014)</u>

2-203. <u>Terms of members</u>. Of the members first appointed to the board, four (4) shall serve until September 30, 1974; three (3) until September 30, 1975; and three (3) until September 30, 1976. Thereafter all appointments to the board, with the exception of the high school student members, shall be for terms of three (3) years and all terms shall commence on October 1. The high school student members of the board shall serve two (2) year terms of office. Of the students first appointed after the adoption of this amendment, one (1) shall serve until May 31, 1999, and one (1) shall serve until

¹Charter reference

Advisory boards: art. III, § 5.

May 31, 2000. Thereafter, all appointments of high school student members shall be for two (2) years and all terms shall commence on June 1. If a successor has not been named at the expiration of a member's term, the member shall continue to serve until his or her successor is appointed. Whenever a vacancy occurs, an appointment shall be made for the remainder of the unexpired term.

As of April 1, 2011, all current members' terms (except for student members which shall remain unchanged) shall be extended through to the following December 31, and all subsequent terms shaft commence on a date established by resolution of city council with the term lengths and staggered appointments remaining the same. (Ord. #15-98, May 1998, § 2, as amended by Ord. #3-11, March 2011, as replaced by Ord. #14-2014, Oct. 2014)

2-204. Designation and term of chairperson and vice-chairperson. The board shall elect from its membership a chairperson, vice-chairperson and secretary. (1969 Code, § 2-104, as replaced by Ord. #14-2014, Oct. 2014)

2-205. <u>Compensation</u>. Members of the board shall serve without compensation but may be reimbursed for all necessary expenses incurred in the course of their duties in accordance with the appropriations made by the city council. (1969 Code, § 2-105, as replaced by Ord. #14-2014, Oct. 2014)

2-206. <u>Functions</u>. The function of the board shall be to serve as an advisory body to the city council. When requested by city council, the board shaft give advice and assistance in matters contributing to a quality environment; and further, upon request, it shall advise the city manager and the municipal planning commission on specific environmental matters. (1969 Code, § 2-106, as replaced by Ord. #14-2014, Oct. 2014)

2-207. <u>Meetings; quorum</u>. The board shall hold public meetings at such regular intervals and places at it may designate. Six (6) members of the board shall constitute a quorum. For purposes of a quorum, the student members count as only one (1) member because they share one (1) vote and cannot vote separately. For clarification purposes, if one (1) or both student members are present at a meeting, five (5) other members must be present for there to be a quorum of the board. All actions shall require the concurring vote of a majority of the members present at a duly constituted meeting, with the student members again counting as only one (1) member for the purposes of calculating a majority vote. For example, if eight (8) members are present at a meeting, including both student members, a majority for voting purposes is four (4) instead of five (5) because the students only count as one (1) regardless of whether one (1) or both are present at the meeting and regardless of whether or not there is a consensus for the student members' vote. (1969 Code, § 2-107, as replaced by Ord. #14-2014, Oct. 2014)

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2-208. <u>Powers</u>. In the performance of its function, the board is authorized to adopt bylaws and rules of procedure for the conduct of its authorized activities; the board will recommend for approval and authorization by the city council a proposed annual work program involving studies for the preservation and improvement of the environment, it shall issue reports and findings on such studies. The board is further authorized to make specific recommendations on environmental questions referred by the city council, city manager, or municipal planning commission. (1969 Code, § 2-108, as replaced by Ord. #14-2014, Oct. 2014)

2-209. <u>Availability of city facilities and personnel to assist the</u> <u>board</u>. Subject to the approval of the city manager, the facilities and personnel of the city shall be made available to assist the board in carrying out its functions. (1969 Code, § 2-109, as replaced by Ord. #14-2014, Oct. 2014)

2-210. <u>Attendance policy</u>. Members of the board are subject to the attendance policy adopted by city council for boards and commissions. (1969 Code, § 2-110, as replaced by Ord. #14-2014, Oct. 2014)

2-211. <u>**Deleted**</u>. (1969 Code, § 2-111, as deleted by Ord. #14-2014, Oct. 2014)

TREE BOARD¹

SECTION

2-301. Designation of a city tree board.

2-302. Duties and responsibilities of the city tree board.

2-301. <u>Designation of a city tree board</u>. The environmental quality advisory board shall serve as the city tree board. (1969 Code, § 16-1)

2-302. <u>Duties and responsibilities of the city tree board</u>. (1) It shall be the responsibility of the board to develop and update a plan to promote and encourage the care, planting and preservation of trees and shrubs within the community. Said plan shall be submitted to city council for review and approval.

(2) The board, when requested by the city council or city manager, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work. (1969 Code, \S 16-2)

¹Municipal code reference

Tree topping, pruning, etc.: title 13, chapter 4.

TITLE 3

MUNICIPAL COURT

CHAPTER

- 1. CITY COURT.
- 2. CITY JUDGE.
- 3. CITY COURT CLERK.
- 4. COURT ADMINISTRATION.
- 5. PROCESSES, BONDS AND APPEALS.
- 6. ADMINISTRATIVE HEARING OFFICER.

CHAPTER 1

<u>CITY COURT¹</u>

SECTION

- 3-101. Created; presiding officer.
- 3-102. Authority to enforce ordinances by fines, etc.
- 3-103. Time for sessions.
- 3-104. Contempt of court.

3-101. <u>**Created**</u>; **presiding officer**</u>. There is hereby created a city court, to be presided over by a city judge.² (1969 Code, § 10-1)

3-102. <u>Authority to enforce ordinances by fines, etc</u>. The city court shall have the power to enforce any ordinance by means of fines, forfeitures, and penalties in accordance with the penalty provisions of such ordinance, but no fine, forfeiture, or penalty shall exceed fifty dollars (\$50.00). (1969 Code, \$10-10, modified)

3-103. <u>Time for sessions</u>. Effective January 1, 2011, sessions of city court shall be held at 9:00 A.M. on Monday and Thursday, and at 5:00 P.M. on Wednesday of each week, except on city holidays and other days as designated by the city judge. The city judge is authorized to change the regular court session dates and time and is authorized to establish other court dates and

¹Charter reference City court: art III, § 3.

²Charter reference City judge: art. III, § 2. Removal of city judge: art. III, § 4. times for special hearings. (1969 Code, § 10-12, as replaced by Ord. #17-10, Nov. 2010)

3-104. <u>Contempt of court</u>. The judge of the city court shall have the power to punish for contempt of court. Contempt of court is defined as willful misbehavior in the presence of court or so near as to obstruct the administration of justice; willful misbehavior of any officers of the court in their official transactions; willful disobedience or resistance of any officer of the court, party, witness, or other person to any lawful writ, process, order, rule, decree, or command of the court; abuse of, or unlawful interference with, the process or proceedings of the court; and any other act or omission declared a contempt by law. A violation of this section is punishable by a fifty dollar (\$50.00) fine. (as added by Ord. #13-11, Nov. 2011)

CITY JUDGE

SECTION

- 3-201. Election and term of judge.
- 3-202. Judge's salary.
- 3-203. Appointment of additional clerks and assistants; designation of bailiff.
- 3-204. Filling of vacancies in court offices.
- 3-205. Jurisdiction generally.
- 3-206. Authority of judge to adopt rules, maintain order and punish for contempt.

3-201. <u>Election and term of judge</u>. The city judge shall be elected in the manner provided for in article III, § 2, of the city's charter and the city judge's term of office shall be four (4) years. (1969 Code, § 10-2)

3-202. <u>Judge's salary</u>. The salary of the city judge shall be as provided by the ordinance adopting a comprehensive pay plan of the city. (1969 Code, § 10-3)

3-203. <u>Appointment of additional clerks and assistants</u>;¹ <u>designation of bailiff</u>. The city judge shall have the right to appoint such additional clerks or assistants as may be provided for by ordinance, and the city judge is hereby authorized to designate an officer from the ranks of the city police force as bailiff for the city court. (1969 Code, § 10-5)

3-204. <u>Filling of vacancies in court offices</u>. Any vacancy in the office of the city court clerk or any other lawful office or position in the city court shall be filled by appointment of the city judge. (1969 Code, § 10-6)

3-205. <u>Jurisdiction generally</u>. The judge of the city court shall have jurisdiction in and over all cases for the violation of and all cases arising under the laws and ordinances of the city. (1969 Code, § 10-9)

3-206. <u>Authority of judge to adopt rules, maintain order and</u> <u>punish for contempt</u>. The judge of the city court may adopt such rules as may be necessary to expedite the trial and disposal of cases. The city judge shall have the power to maintain order in the city judge's court and may punish as for

¹Charter reference

Clerk and employees of city court: art. III, § 2.

a contempt any person or persons interfering in any manner with the orderly operation of the court. (1969 Code, § 10-14)

CITY COURT CLERK¹

SECTION

3-301. Clerk's position created; appointment, term, and salary of clerk.3-302. Clerk and deputies not to act as counsel or agent in cases; exception.

3-301. <u>Clerk's position created; appointment, term, and salary of</u> <u>clerk</u>. There is hereby created the position of city court clerk, who shall be appointed by, and serve at, the city judge's pleasure. The salary of the city court clerk shall be as provided by the ordinance adopting a comprehensive pay plan of the city. (1969 Code, § 10-4)

3-302. <u>Clerk and deputies not to act as counsel or agent in cases:</u> <u>exception</u>. Neither the clerk of the city court nor deputy clerks shall be concerned as counsel or agent in the prosecution or defense of any case before the city court, except as provided in § 15-120 of this code. (1969 Code, § 10-8)

¹Charter reference

Clerk and employees of city court: art. III, § 2.

COURT ADMINISTRATION

SECTION

- 3-401. Compensation of judge and employees not to be related to amount of money collected and is in lieu of fees.
- 3-402. City court minutes.
- 3-403. Docket.
- 3-404. Defendant's name to be called and case disposed of in open court; appearance of defendant; forfeiture of bond or deposit for failure to appear.
- 3-405. Refund of cash deposit made by defendant.
- 3-406. Costs established.
- 3-407. Executions for unpaid fines and costs.
- 3-408. Law officers not entitled to witness fees.
- 3-409. Auditing of accounts.
- 3-410. Electronic traffic citation regulations and fees.
- 3-411. Sunset provision.

3-401. <u>Compensation of judge and employees not to be related to</u> <u>amount of money collected and is in lieu of fees</u>.¹ The compensation fixed for the judge, clerk and other employees of the city court shall in no way be related to the amount of money collected by the court or the clerk thereof, and the compensation so fixed shall be in lieu of all fees, fines, forfeitures or other money collected by the court. (1969 Code, § 10-7)

3-402. <u>City court minutes</u>. The minutes of the city court shall be maintained by the city court clerk and shall be reviewed by, and signed by, the city judge on a monthly basis. (1969 Code, § 10-13, modified)

3-403. <u>Docket</u>. The judge of the city court shall keep and maintain a docket of all cases set before him or her, which shall be a public record, and which shall reflect the style of the case, the date of trial, the offense charged and the disposition of the case. (1969 Code, § 10-17)

3-404. Defendant's name to be called and case disposed of in open court; appearance of defendant; forfeiture of bond or deposit for failure to appear. Except for pleas of guilty in cases of minor traffic violations, as provided for in § 15-120 of this code, it shall be the duty of the clerk of the city court to call out the names of all defendants appearing on the docket in open court and the judge of the court shall have no authority to dispose of any case

¹Charter reference: art. III, § 2.

appearing on the docket except in open court after a full and complete hearing. Except where a plea of guilty is entered by the clerk for a defendant in a minor traffic violation case, all defendants appearing upon the docket of the city court shall be required to appear in person for trial upon any charge when the defendant's name is called, and it shall not be lawful to waive the appearance of any such defendant, and if such defendant shall fail to appear when the case is called, the judge shall be required to authorize the clerk of the court to immediately take a forfeiture on the bonds or cash deposit of the defendant. (1969 Code, § 10-18)

3-405. <u>Refund of cash deposit made by defendant</u>. Whenever any defendant, upon arrest, has posted a cash forfeit, and after the hearing of the case the defendant shall be entitled to the return of such cash forfeit, or any part thereof, the clerk of the city court shall have no authority to refund or release such sum to any person other than the defendant, in which event the clerk shall be required to take a receipt from the defendant for the amount of refunded. Such receipt shall be preserved for the inspection of the city auditor and any other person designated by the city manager. (1969 Code, § 10-19)</u>

3-406. <u>Costs established</u>. (1) <u>Court costs</u>. In all cases arising under the laws and ordinances of the city, the judge of the city court shall and is hereby authorized to tax in the bill of costs the sum of the following amounts:

(a) <u>City court clerk fee</u>. The city court clerk fee shall be eightyone dollars and twenty-five cents (\$81.25) beginning January 1, 2012.

(b) <u>Litigation tax</u>. There is hereby levied and imposed a privilege tax on litigation in all cases arising under the laws and ordinances of the city instituted in the city court for the City of Oak Ridge, Tennessee, with such amount to be equal to the maximum amount permitted by state law. This litigation tax is imposed and is to be collected in the same manner set forth in title 67, chapter 4, of the <u>Tennessee Code Annotated</u>, as the same may be amended.

There may be included in such bill of costs the same amounts for witnesses for the city, other than police officers, as is allowed for such witnesses in state cases.

(2) <u>Disposition of funds</u>. All fines, penalties, forfeitures, and money collected hereunder shall be deposited into the general fund of the City of Oak Ridge, Tennessee. (Ord. #14-97, Sept. 1997, as amended by Ord. #16-04, Sept. 2004, and Ord. #14-11, Nov. 2011)

3-407. <u>Executions for unpaid fines and costs</u>. The city judge is empowered to issue executions for the collection of unpaid fines and costs to the city in the same manner as other courts of this state are now empowered. (1969 Code, § 10-24, modified)

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3-408. <u>Law officers not entitled to witness fees</u>. No officer of the law shall be entitled to witness fees in a case prosecuted under an ordinance of the city before the city judge. (1969 Code, § 10-23)

3-409. <u>Auditing of accounts</u>. All accounts of the city court shall be subject to such audit as may be prescribed by the city manager. (1969 Code, § 10-29)

3-410. <u>Electronic traffic citation regulations and fees</u>.

(1) <u>Establishment of fee</u>. Pursuant to <u>Tennessee Code Annotated</u>, §55-10-207(e), the court clerk shall charge and collect an electronic traffic citation fee of five dollars (\$5.00) for each traffic citation–whether written or electronic--resulting in a conviction. Such fee shall be assessable as court costs and paid by the defendant for any traffic citation that results in a plea of guilty or nolo contendere, or a judgment of guilty. This fee shall be in addition to all other fees, taxes and charges.

(2) <u>Distribution of fee</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 55-10-207(e), one dollar (\$1.00) of such fee shall be retained by the court clerk. The remaining four dollars (\$4.00) of the fee shall be transmitted monthly by the court clerk to the city police department.

(3) <u>Use of fee</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 55-10-207(e), all funds derived from the electronic traffic citation fee that are transmitted to the city police department shall be accounted for in a special revenue fund of the police department and may only be used for the following purposes:

(a) Electronic citation system and program related expenditures; and

(b) Related expenditures by the police department for technology, equipment, repairs, replacement and training to maintain electronic citation programs.

Pursuant to <u>Tennessee Code Annotated</u>, §55-10-207(e), all funds derived from the electronic traffic citation fee set aside for court clerks shall be used for computer hardware purchases, usual and necessary computer related expenses, or replacement. Such funds shall be preserved for those purposes and shall not revert to the general fund at the end of a budget year if unexpended. (as added by Ord. #3-2015, Jan. 2015)

3-411. <u>Sunset provision</u>. The sections created by this ordinance and its fee requirement shall terminate five (5) years from the date of adoption of this ordinance and the city code shall so be annotated. (as added by Ord. #3-2015, Jan. 2015)

PROCESSES, BONDS AND APPEALS¹

SECTION

- 3-501. Signing of processes.
- 3-502. Execution of processes.
- 3-503. Right of persons arrested to post bail and contact attorney, bond provider, etc.
- 3-504. Authority of judge, clerk, etc., to accept bail.
- 3-505. Right of appeal.
- 3-506. Appeal bond--required; amount; conditions.
- 3-507. Appeal bond--sureties.

3-501. <u>Signing of processes</u>. All processes issuing from the city court shall be signed by either the judge or the clerk thereof, except that warrants for arrest shall be signed by the judge or deputy court clerks. All warrants charging state law violations shall be signed by the judge. Warrants charging city ordinance violations may be signed by the shift supervisor of the police department on duty when the warrant is sought who would be designated a deputy court clerk by the city judge. These deputy court clerks shall be so designated by the city judge by proper entry upon the minutes of the court and the administering of an oath by the city judge. Such deputy court clerks shall have no other powers than those granted by this section. (1969 Code, § 10-20)

3-502. <u>Execution of processes</u>. All warrants, subpoenas, orders and other processes of the city court shall be executed by the police officers of the city. (1969 Code, \S 10-21)

3-503. <u>Right of persons arrested to post bail and contact attorney</u>, <u>bond provider, etc</u>. Persons arrested for the violation of any ordinance of the city shall be permitted to post bail, except where charged with public drunkenness or driving under the influence of some intoxicant or drug, in which event the booking officer in charge shall have the authority to detain such defendant for a reasonable time as a protection for the public and the person so arrested and committed, whereupon such person may be allowed to post bail. Persons arrested and detained shall be permitted to contact an attorney, bond provider, or other person to assist in his or her release. (1969 Code, § 10-15)

¹Charter reference City court: art. III, § 3.

3-504. <u>Authority of judge, clerk, etc., to accept bail</u>. The city judge and the city court clerk or the city court clerk's deputies are authorized to take bail, either for the appearance of a defendant for examination or for the defendant's appearance at court to answer the charge made in the warrant of arrest. In the absence of the city judge and the city court clerk and the city court clerk's deputies, or in the event none of them are available, the highest ranking police officer on duty at the time is hereby designated as an officer of the court and is authorized to take such bail. If the defendant is committed to jail, the persons designated by this section may take bail at any time thereafter for the appearance of the defendant at the court having cognizance of the offense. (1969 Code, § 10-16)

3-505. <u>**Right of appeal**</u>. An appeal may be had to an appropriate court from any judgment of the city court if prayed and granted within ten (10) days from the rendition of judgment; provided, however, such appeal shall not act as a stay or supersedeas of the fine or imprisonment unless the defendant executes an appeal bond in the manner provided in this chapter. (1969 Code, § 10-25)

3-506. <u>Appeal bond--required; amount; conditions</u>. Any person convicted in the city court shall, upon appeal or other proceedings taking such case to the appellate court, give bond with approved surety in the amount of five hundred dollars (\$500.00), conditioned that, if the appellate court shall find against the appellant and the fine imposed by such court is not paid, the defendant will surrender himself or herself to the police authorities to be dealt with as other defenders whose fines are not paid.

In addition to all other conditions herein prescribed, the appeal bond shall contain a condition that the surety or sureties thereon shall be liable for whatever judgment may be rendered against the defendant in the appellate court. (1969 Code, § 10-26, modified)

3-507. <u>Appeal bond--sureties</u>. Each bond given to appeal any cause from the city court shall be executed by a corporate surety duly authorized and qualified to transact such business in the State of Tennessee, or by two (2) individual sureties approved by the clerk of the city court. (1969 Code, § 10-27)

ADMINISTRATIVE HEARING OFFICER

SECTION

- 3-601. Administrative hearing officer.
- 3-602. Jurisdiction and procedure before the administrative hearing officer.
- 3-603. Judicial review of final order.
- 3-604. Interlocal agreements.

3-601. <u>Administrative hearing officer</u>. (1) In accordance with <u>Tennessee Code Annotated</u>, § 6-54-1001 et seq, there is hereby created the office of administrative hearing officer to hear violations of any of the provisions codified in the city's code relating to building and property maintenance, including:

- (a) Locally adopted building codes;
- (b) Locally adopted residential codes;
- (c) Locally adopted plumbing codes;
- (d) Locally adopted electrical codes;
- (e) Locally adopted mechanical codes;
- (f) Locally adopted energy codes;
- (g) Locally adopted property maintenance codes;
- (h) Locally adopted zoning codes; and
- (i) Ordinances regulating any subject matter commonly found in the codes mentioned above.

The administrative hearing officer is not authorized to hear violations of codes adopted by the state fire marshal pursuant to <u>Tennessee Code Annotated</u>, § 68-120-101(a) enforced by a deputy building inspector pursuant to <u>Tennessee</u> <u>Code Annotated</u>, § 68-120-101(f).

(2) There is hereby created one (1) administrative hearing officer to be appointed by city council for a four (4) year term pursuant to <u>Tennessee Code</u> <u>Annotated</u>, § 6-54-1006 and serve at the pleasure of city council.

- (3) The administrative hearing officer shall be one (1) of the following:
 - (a) Licensed building inspector;
 - (b) Licensed plumbing inspector;
 - (c) Licensed electrical inspector;
 - (d) Licensed attorney;
 - (e) Licensed architect; or
 - (f) Licensed engineer.

(4) The administrative hearing officer shall comply with the training and education requirements set forth in <u>Tennessee Code Annotated</u>, § 6-54-1007

(5) The amount of compensation for the administrative hearing officer shall be approved by city council.

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(6) Clerical and administrative support for the administrative hearing officer shall be provided as determined by the city manager.

(7) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in <u>Tennessee Code Annotated</u>, §6-54-1001 <u>et seq</u>. (as added by Ord. #01-2014, March 2014, and amended by Ord. #15-2014, Dec. 2014, and Ord. #14-2017, Oct. 2017)

3-602. Jurisdiction and procedure before the administrative hearing officer. The administrative hearing officer's jurisdiction shall be as set forth in <u>Tennessee Code Annotated</u>, § 6-54-1002, and all matters before the administrative hearing officer shall be conducted in accordance with the provisions of <u>Tennessee Code Annotated</u>, § 6-54-1001 <u>et seq</u>., which provisions are adopted and incorporated herein by reference. (as added by Ord. #01-2014, March 2014)

3-603. <u>Judicial review of final order</u>. A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to <u>Tennessee Code Annotated</u>, § 6-54-1017, which shall be the only available method of judicial review. (as added by Ord. #01-2014, March 2014)

3-604. <u>Interlocal agreements</u>. As authorized by <u>Tennessee Code</u> <u>Annotated</u>, § 6-51-1001, the city is hereby authorized to enter into interlocal agreements with one (1) or more municipalities to employ an administrative hearing officer. (as added by Ord. #01-2014, March 2014)

TITLE 4

MUNICIPAL PERSONNEL¹

CHAPTER

1. MISCELLANEOUS.

2. PERSONNEL ADVISORY BOARD.

CHAPTER 1

MISCELLANEOUS

SECTION

4-101. Personnel ordinance.

4-102. Surrender of records, assets, etc., upon resignation.

4-101. <u>Personnel ordinance</u>. Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of Ordinance No. 13-60, known as the "Personnel Ordinance," or any amendment thereto, and such ordinance, as amended, is hereby recognized as continuing in full force and effect. (1969 Code, § 2-2)

4-102. Surrender of records, assets, etc., upon resignation.

(1) Any officer or employee appointed by the city council, who shall resign his or her office or position in the city government, shall, on or by the effective date of such resignation, place at the disposal of his or her successor, or the city clerk if no successor shall have been chosen at the date of resignation, all city records, assets and other effects in his or her custody.

(2) Any officer or employee appointed by the city manager, who shall resign his or her office or position in the city government, shall, on or by the effective date of such resignation, place at the disposal of his or her successor, or the city manager if no successor shall have been chosen at the date of resignation, all city records, assets and other effects in his or her custody. (1969 Code, § 2-5)

¹Charter references

Appointment, removal, etc., of personnel: art. V, § 22. Compensation of officers and employees: art. V, § 27. General personnel policy: art. V, § 23.

PERSONNEL ADVISORY BOARD¹

SECTION

- 4-201. Created.
- 4-202. Composition; appointment of members.
- 4-203. Terms of members.
- 4-204. Powers and duties generally.
- 4-205. Adoption of bylaws and rules of procedure.

4-201. <u>Created</u>. There is hereby created a personnel advisory board for the city. (1969 Code, § 2-68)

4-202. <u>Composition; appointment of members</u>. The personnel advisory board shall consist of five (5) members appointed by the city council. (1969 Code, § 2-69)

4-203. <u>Terms of members</u>. Each member of the personnel advisory board shall serve for a term of three (3) years except that, of the first five (5) members appointed, one (1) shall serve for a term of one (1) year, two (2) shall serve for a term of two (2) years and two (2) shall server for a term of three (3) year. (1969 Code, § 2-70)

4-204. <u>Powers and duties generally</u>. The duties and powers of the personnel advisory board shall be as prescribed in the applicable provisions of the city's charter and ordinances. (1969 Code, § 2-71)

4-205. <u>Adoption of bylaws and rules of procedure</u>. The personnel advisory board is authorized to adopt bylaws and rules of procedure for the conduct of its authorized activities, insofar as such bylaws and rules of procedure are not in conflict with laws of the state and charter and ordinances of the city. (1969 Code, § 2-72)

¹Charter references

Advisory boards: art. III, § 5.

Board to assist city manager: art. V, § 26.

Investigation of complaints: art. V, § 25

Municipal code references

Environmental quality advisory board: title 2, chapter 2. Membership to boards--residency required: § 2-101.

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. PRIVILEGE TAXES.
- 3. [DELETED.]
- 4. CONTRACTS AND PURCHASES.
- 5. MANAGEMENT OF CITY PROPERTY.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Taxes imposed.
- 5-102. When due, delinquent.
- 5-103. Delinquency penalties.
- 5-104. Refund of erroneously assessed taxes.
- 5-105. Administrative fee.

5-101. <u>**Taxes imposed**</u>.² In order to provide revenue for municipal purposes, the City of Oak Ridge, Tennessee, shall impose taxes for such purposes. (1969 Code, § 22-1, as replaced by Ord. #7-10, May 2010)

5-102. When due, delinquent. The taxes levied and assessed under § 5-102 of this chapter shall become due and payable on the first day of July each year for the then-current calendar year and shall become delinquent after the thirty-first day of August of each year. In the event that state and/or county appraisal processes and implementation timetables impact § 5-102, the finance director, with the approval of the city manager, shall present a modified schedule for tax due date and delinquent date which shall be approved by resolution of the city council. (1969 Code, § 22-2, as replaced by Ord. #03-2014, March 2014, and Ord. #10-2015, June 2015)

Annual audit: art. V, § 19. Budget: art. V, §§ 10-16. Depository for city funds: art. V, § 21. Fiscal year: art. V, § 9.

²Charter reference

Assessment and collection of taxes: art. V, § 7.

¹Charter references

5-103. <u>Delinquency penalties</u>. If such taxes are not paid on or before the date fixed for delinquency thereof, then a penalty of one and one-half percent (1 1/2%) per month thereon shall accrue. (1969 Code, § 22-3, as replaced by Ord. #7-10, May 2010)

5-104. <u>Refund of erroneously assessed taxes</u>. The city manager is hereby authorized and empowered to adjust and refund all erroneously, wrongfully, or illegally assessed and paid city taxes, provided any claim for such refund shall be supported by proper proof submitted within three (3) years from the date of payment, otherwise the taxpayer shall not be entitled to refund and said claim shall forever be barred. This section pertains only to erroneously, wrongfully, or illegally assessed taxes and is not intended to and shall not authorized review, adjustment, or refund based on the amount of any tax assessment. (1969 Code, § 22-4)

5-105. <u>Administrative fee</u>. When delinquent taxes are eligible for collection in a delinquent tax sale pursuant to <u>Tennessee Code Annotated</u>, § 67-5-2401 <u>et seq</u>., a five percent (5%) administrative fee will be added to the base tax amount to offset the cost of compiling and processing the delinquent tax. (as added by Ord. #10-2017, Aug. 2017)

PRIVILEGE TAXES

SECTION

- 5-201. Adoption of state law privilege taxes; imposition.
- 5-202. Failure to pay.

5-203. Exemptions.

5-204. Payment does not authorize unlawful business.

5-201. Adoption of state law privilege taxes; imposition.

(1) <u>Privilege taxes</u>. In order to provide revenue for municipal purposes, the city hereby adopts by reference the provisions of parts 2, 3, 5, 6, 7, and 14 of chapter 4 of title 67, <u>Tennessee Code Annotated</u>, as the same may be amended, which title provides for the levying of privilege taxes upon occupations, businesses and business transactions declared therein to be privileges and declared therein to be taxable, and the city shall impose the privilege taxes, in an amount equal to the maximum permitted by state law, which are authorized to such title.

(2) <u>Collection</u>. The privilege taxes are imposed and are to be collected in the same manner set forth in chapter 4 of title 67, <u>Tennessee Code Annotated</u>, as the same may be amended.

(3) <u>Disposition of funds</u>. All taxes, interest payments, penalties and money collected hereunder shall be deposited into the general fund of the City of Oak Ridge, Tennessee. (Ord. #21-98, Oct. 1998)

5-202. <u>Failure to pay</u>. It shall be unlawful for any person to exercise any of the privileges declared and defined in the chapters referred to in § 5-201 without having paid the privilege tax therein levied and anyone exercising any of such privileges without first paying the tax or without complying therewith shall be punished by a fine of not less than five dollars (\$5.00) for each day such privilege is exercised without a license, which fine shall be in addition to any other penalty imposed by such chapters. (1969 Code, § 22-29)

5-203. <u>Exemptions</u>. The engaging in the vocations, occupations or businesses defined in the chapters referred to in § 5-201 by religious, charitable, scientific or educational organizations or institutions, their members and officers, exclusively for carrying out one or more of the purposes for which the organization or institution exists shall not be subject to the privilege taxes provided for therein. (1969 Code, § 22-30)

5-204. <u>Payment does not authorize unlawful business</u>. Payment of any privilege tax levied pursuant to this chapter shall not be deemed to

license or authorize any character of business that is now or hereafter becomes unlawful. (1969 Code, § 22-31)

[DELETED]¹

This chapter was deleted by Ord. #2-06, Feb. 2006.

 $^{^11969}$ Code, §§ 22-11 through 22-17 were deleted by Ord. #2-06, Feb. 2006.

CONTRACTS AND PURCHASES

SECTION

- 5-401. Manager designated as purchasing officer.
- 5-402. Supplies, equipment, etc., to be acquired by purchasing officer; exception.
- 5-403. General procedure.
- 5-404. Emergency purchases.
- 5-405. When formal sealed bids and approval by resolution required.
- 5-406. When written contract required.
- 5-407. Notice inviting bids.
- 5-408. Soliciting bids from persons on bidder's list.
- 5-409. Bid deposits.
- 5-410. Bids for purchases \$25,000.00 and under.
- 5-411. Submission, identification, opening and tabulation of bids.
- 5-412. Rejection of bids.
- 5-413. Bids not to be accepted from persons in default on payments due city.
- 5-414. Considerations in determining lowest responsible bidder.
- 5-415. Statement when award not given to low bidder.
- 5-416. Award in case of tie bids.
- 5-417. Performance bond.
- 5-418. Waiver of bid requirements.
- 5-419. Record of bids.
- 5-420. Minimum wage stipulations for certain contracts--investigation to determine violations.
- 5-421. Minimum wage stipulations--list of violators; effect of violation.
- 5-422. Antidiscrimination provision--in lease or contract for use of city property.
- 5-423. Antidiscrimination provison--in contracts for work or services.
- 5-424. Division of purchases or contracts to avoid requirements of chapter.
- 5-425. Officers and employees not to have financial interest.

5-401. <u>Manager designated as purchasing officer</u>.¹ The city manager is hereby designated as the purchasing officer of the city. (1969 Code, § 2-18)

5-402. <u>Supplies, equipment, etc., to be acquired by purchasing</u> <u>officer; exception</u>. All supplies, materials, equipment and services of any nature whatsoever shall be acquired by the purchasing officer or the purchasing

¹Charter references

City manager responsible for purchasing: art. V, § 17. Purchases by superintendent of schools: art. VI, § 15.

officer's authorized representative, except as otherwise provided in this chapter. (1969 Code, § 2-19)

5-403. <u>General procedure</u>. Competitive bids on all supplies, materials, equipment, and services, except those specified elsewhere in this chapter, and contracts for public improvements shall be obtained, whenever practicable, and the purchase or contract awarded to the lowest responsible bidder, provided that any or all bids may be rejected as prescribed in this chapter. (1969 Code, § 2-20)

5-404. <u>Emergency purchases</u>. (1) Notwithstanding any other provision of this section, emergency purchases shall not require competitive bidding or prior approval of city council. When an emergency purchase amounts to more than twenty-five thousand dollars (\$25,000.00), a full report of the emergency purchase shall be filed by the city manager with city council at the next council meeting to inform city council of the emergency purchase.

(2) "Emergency purchase" means a purchase made in response to unforeseen circumstances beyond the control of the city which presents a real, immediate and material threat to the public interests or property of the city. (Ord. #23-99, Oct. 1999, as amended by Ord. #11-07, May 2007)

5-405. When formal sealed bids and approval by resolution required. Public advertisement and formal sealed bids shall be obtained for all materials, equipment, and supplies which are purchased by the city and for all services and public improvements, except such services as are provided for elsewhere in this chapter, which involve an expenditure of more than twenty-five thousand dollars (\$25,000.00), and the obtaining of such material, equipment, supplies or services shall be obtained by resolution of city council (Ord. #23-99, Oct. 1999, as replaced by Ord. #13-06, Aug. 2006, and Ord. #11-07, May 2007, and amended by Ord. #14-07, July 2007, and replaced by Ord. #16-07, Aug. 2007)

5-406. When written contract required. (1) Except as otherwise provided by this section, and except the services of salaried employees of the city, and services of a professional person or firm, including attorneys, accountants, physicians, architects and consultants required by the city, whose fee is five thousand dollars (\$5,000.00) or more, shall be evidenced by a written contract signed by the person or firm rendering the service and by:

(a) The city manager if the contract is twenty-five thousand dollars (\$25,000.00) or less.

(b) The mayor, after authorization by the city council, if the contract is more than twenty-five thousand dollars (\$25,000.00), provided, however, that city council, in its discretion, may contract for such services by the adoption of a written resolution defining the services to be rendered.

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No competitive bidding shall be required for such services.

(2) Agreements entered into by the city for construction work involving the expenditure of five thousand dollars (\$5,000.00) or more must be evidenced by written contract. (Ord. #23-99, Oct. 1999, as replaced by Ord. #11-07, May 2007)

5-407. <u>Notice inviting bids</u>. Notice inviting bids shall be published once in either the official city newspaper, on television, on the city's official Internet homepage, or on any other media type with widespread usage in the community. Notice shall be published at least five (5) days preceding the last day set for the receipt of proposals. The notice shall include a general description of the articles to be purchased, shall state where bid documents and written specifications may be secured, and the time and place for opening bids. (Ord. #23-99, Oct. 1999)

5-408. <u>Soliciting bids from persons on bidder's list</u>. The purchasing officer shall solicit bids from all responsible prospective suppliers who have requested their names to be added to the bidder's list, which the purchasing officer shall maintain, by sending them a copy of the notice referred to in § 5-407 or such other notice as will acquaint them with the proposed purchase or work required. In any case, invitations sent to the suppliers on the bidder's list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent. (Ord. #23-99, Oct. 1999)</u>

5-409. <u>Bid deposits</u>. When deemed necessary, bid deposits shall be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the city manager shall determine, and unsuccessful bidders shall be entitled to a return of the deposits where such has been required. A successful bidder shall forfeit any required deposit upon failure on his or her part to enter a contract within ten (10) days after the award unless such delay is approved by the city manager. (1969 Code, § 2-27)

5-410. <u>Bids for purchases \$25,000.00 and under</u>. All purchases of twenty-five thousand dollars (\$25,000.00) or less, but more than two thousand five hundred dollars (\$2,500.00) shall not require public advertisement but shall, whenever possible, be based on at least three (3) informally written competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in this chapter in determining the lowest responsible bidder. (Ord. #23-99, Oct. 1999, as replaced by Ord. #1306, Aug. 2006, and Ord. #16-07, Aug. 2007)

5-411. Submission, identification, opening and tabulation of bids.

(1) Bids for purchases of more than twenty-five thousand dollars (\$25,000.00) shall be submitted sealed to the purchasing officer and shall be

identified as to the exact bid solicitation, including the date and time of the scheduled opening. Such bids shall be opened in public at the time and place stated in the invitation to bid, and a tabulation of all bids so received shall be kept on file in the purchasing office for public inspection.

(2) The City of Oak Ridge shall comply with <u>Tennessee Code</u> <u>Annotated</u>, § 62-6-119, as may be amended, regarding the information required on the outside envelope of sealed bids. (Ord. #23-99, Oct. 1999, as amended by Ord. #16-07, Aug. 2007)

5-412. <u>Rejection of bids</u>. The purchasing officer shall have and hereby is granted the authority to reject any or all bids, parts of all bids, or all bids for any one (1) or more supplies or contractual services included in the proposed contract when the public interest will be served thereby. (1969 Code, § 2-30)

5-413. <u>Bids not to be accepted from persons in default on</u> **payments due city**. The purchasing officer shall not accept the bid of any vendor or contractor who is in default on the payment of any taxes, licenses, fees or other monies of whatever nature that may be due the city by such vendor or contractor. (1969 Code, § 2-31)

5-414. <u>Considerations in determining lowest responsible bidder</u>. In determining the lowest responsible bidder, as referred to in § 5-403 in addition to price, the purchasing officer shall consider:

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

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

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

(4) The quality of performance of previous contracts or services.

(5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

(6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.

(7) The quality, availability and adaptability of the supplies or contractual services to the particular use required.

(8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.

(9) The number and scope of conditions attached to the bid. (1969 Code, § 2-32)

5-415. <u>Statement when award not given to low bidder</u>. When the award is not given to the lowest responsible bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared and

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filed with all the other papers relating to the transaction. The files shall be maintained by the purchasing officer. (Ord. #23-99, Oct. 1999)

5-416. <u>Award in case of tie bids</u>. (1) If all bids received are for the same total amount or unit price, quality and service being equal, the contract or purchase order shall be awarded to a local bidder.

(2) When a local supplier is not one of the lowest tie bids, or when the lowest tie bid includes more than one local supplier, the purchasing officer shall award the contract to one of the tie bidders by drawing lots in public.

(3) "Local bidder" and "local supplier" mean an individual or business entity whose principal place of business is located within the city limits of the City of Oak Ridge as evidenced by official documents filed with the secretary of state or any other official documentation. (Ord. #23-99, Oct. 1999)

5-417. <u>Performance bond</u>. The purchasing officer shall require a performance bond in such amount as shall be found reasonably necessary to protect the interest of the city before entering into any construction contract exceeding twenty-five thousand dollars (\$25,000.00), provided the city council may waive a performance bond in any instance it deems appropriate. The purchasing officer is granted the authority to require a performance bond before entering into any other type of contract, in such amount as shall be found reasonably necessary to protect the best interest of the city. (1969 Code, \$2-35)

5-418. <u>Waiver of bid requirements</u>. The city council, by written resolution passed by a vote of every member present, upon written recommendation of the city manager that it is clearly to the advantage of the city not to contract by competitive bidding, may waive the requirement of competitive bidding, but a resolution of city council shall be required in applicable cases even though competitive bidding may be waived. This section shall not apply to work done or services performed by salaried employees of the city. (1969 Code, § 2-36)

5-419. <u>Record of bids</u>. The purchasing officer shall keep a record of all open market orders and the bids submitted in competition thereon, including a list of the bidders, the amounts bid by each, and the method of solicitation and bidding; and such records shall be open to public inspection. (1969 Code, § 2-37)

5-420. <u>Minimum wage stipulations for certain contracts-</u> <u>investigation to determine violations</u>. The city manager may on the city manager's own initiative and must, on a verified complaint in writing of any person interested, cause an investigation to be made to determine whether any contractor or subcontractor is violating minimum wage stipulations. The city manager may examine or cause to be examined the books and records of any contractor or subcontractor to ascertain the rate of wages paid to any person employed by any contractor or subcontractor in the furnishing of work, labor or services used in the performance of the contract. (1969 Code, § 2-39)

5-421. <u>Minimum wage stipulations--list of violators; effect of</u> violation. The city manager is authorized and directed to prepare and maintain a list of persons or firms found to have violated minimum wage stipulations required in any contract. No contract shall be awarded to any person or firm appearing on this list until five (5) years have elapsed from the date of the violation by such person or firm. (1969 Code, § 2-40)

5-422. <u>Antidiscrimination provisions—in lease or contract for use</u> <u>of city property</u>. Any lease or contract for the use or occupancy of any cityowned property or facility shall contain therein a provision that the use or enjoyment of the property or facility which is the subject of the lease or contract shall not be restricted because of race, creed, color or national origin of persons seeking such use or enjoyment. (1969 Code, § 2-41)

5-423. <u>Antidiscrimination provision--in contracts for work or</u> <u>services</u>. All contracts entered into by the city whereby services are furnished or municipal functions performed shall contain therein a provision that the contractor, in performing the work required by the contract or furnishing the services provided for shall not discriminate against any person seeking employment with or employed by him or her, because of race, creed, color, national origin, age, sex, sexual orientation, disability, religion, or other legally protected status. (1969 Code, § 2-42, modified)

5-424. Division of purchases or contracts to avoid requirements of chapter. In determining the amount of a purchase or contract for the purposes of this chapter, the entire purchase price of the goods bought and the total amount of charges for work done under a contract shall be considered. No contract or purchase shall be subdivided to avoid the requirements of this chapter. (Ord. #23-99, Oct. 1999)

5-425. <u>Officers and employees not to have financial interest</u>. No purchase shall be made from nor any contract for purchase of services made with any officer or employee of the city or any firm or corporation in which any officer or employee of the city is financially interested. No officer or employee of the city shall accept, directly or indirectly, any fee, rebate, money, or other thing of value from any person employed by or doing business with the city, except on behalf of and for the use of the city. (1969 Code, § 2-44)

MANAGEMENT OF CITY PROPERTY

SECTION

5-501. Sale of surplus property; approval of council.

5-501. <u>Sale of surplus property: approval of council</u>. The city manager shall be responsible for the sale of all surplus city property and equipment. The sale of all such property and equipment shall be by competitive sealed bids taken or by public auction held on such property and equipment. The sale of any single item of equipment for an amount in excess of twenty thousand dollars (\$20,000.00) shall be approved by council. (1969 Code, § 2-60)

TITLE 6

LAW ENFORCEMENT¹

CHAPTER

1. COMMUNITY NOTIFICATION SYSTEM.

CHAPTER 1

COMMUNITY NOTIFICATION SYSTEM

SECTION

- 6-101. Community notification system created.
- 6-102. Method of notification.
- 6-103. Notification fee.
- 6-104. Maintenance of website.

6-101. <u>Community notification system created</u>. As authorized by <u>Tennessee Code Annotated</u>, § 40-39-21 7(a)(1), a community notification system is hereby established. Schools and child care facilities within the city limits will be notified by the police department when a person required to register as a sexual offender or violent sexual offender resides, intends to reside, or, upon registration, declares to reside within the city limits. Schools and child care facilities within the city limits will also be notified when a registered sexual offender or violent sexual offender changes residences within the city limits. (as added by Ord. #4-2015, Jan. 2015)

6-102. <u>Method of notification</u>. The police department will notify schools and child care facilities in writing sent by regular mail or delivered by hand. (as added by Ord. #4-2015, Jan. 2015)

6-103. <u>Notification fee</u>. As authorized by <u>Tennessee Code Annotated</u>, § 40-39-217(a)(2), a notification fee of fifty dollars (\$50.00) per year per offender in the city limits is hereby enacted for the purpose of defraying the costs of the community notification. The notification fee shall be collected at the same time

- Administrative organization of city; police department: § 1-201(7). Arrest without warrant, etc.: § 11-101.
- Citations in lieu of arrest in non-traffic cases: § 12-1601.

¹Municipal code references

Resisting arrest: § 11-102.

Summonses in lieu of arrest: § 12-1602

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as the administrative fee collected pursuant to <u>Tennessee Code Annotated</u>, § 40-39-204(b). (as added by Ord. #4-2015, Jan. 2015)

6-104. <u>Maintenance of website</u>. The city will maintain information on its website to educate the public on sex related crimes and will provide linked access to the Tennessee Bureau of Investigation's Sex Offender Registry. (as added by Ord. #4-2015, Jan. 2015)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

- 1. FIRE CODE.
- 2. [DELETED.]
- 3. [DELETED.]

CHAPTER 1

FIRE CODE

SECTION

- 7-101. International Fire Code adopted.
- 7-102. Updated National Fire Code standards.
- 7-103. Definitions.
- 7-104. Revisions.
- 7-105. Replacements.
- 7-106. Sprinkler requirements.
- 7-107. Geographic limits.
- 7-108. Appeals.
- 7-109. Fireworks discharge prohibited without permit.
- 7-110. Violations.

7-101. International Fire Code adopted. The International Fire Code, 2012 edition, and all subsequent amendments to the 2012 edition, are hereby adopted by reference and shall become a part of this chapter as if copied herein verbatim, except as such code may be in conflict with other provisions of this chapter, in which event such other provisions of this chapter shall prevail. (Ord. #21-00, Aug. 2000, as amended by Ord. #13-05, Nov. 2005, and Ord. #9-06, June 2006, and replaced by Ord. #5-08, Jan. 2008, and Ord. #11-2012, Oct. 2012)

7-102. <u>Updated National Fire Protection Association standards</u>. Upon issuance of updated National Fire Protection Association standards.

referenced in the <u>International Fire Code</u>, the updated National Fire Protection Association standards, Association standards shall be used. The city manager or the city manager's designee shall be responsible for determining the "current" standard to be applied. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

¹Municipal code reference

Fire department; administrative organization of the city: § 1-201(5).

7-103. <u>Definitions</u>. (1) Wherever the word "municipality" is used in the <u>International Fire Code</u> adopted by this chapter, it shall be held to mean the City of Oak Ridge.

(2) Wherever the term "corporation counsel" is used in the <u>International Fire Code</u> adopted by this chapter, it shall be held to mean the attorney for the city. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

7-104. <u>**Revisions**</u>. The following sections of the <u>International Fire Code</u> are hereby revised:

(1) Section 101.1. Insert: City of Oak Ridge, Tennessee for the name of the jurisdiction.

(2) Section 111.4. Insert: \$0.00 for the first amount and \$50.00 for the second amount.

(3) Section 507.5.1. Delete the text of this section in its entirety and replace with the following language:

- (a) Fire hydrants, where required; Residential. The maximum distance between fire hydrants, measured along street centerlines, shall be 450 feet.
- (b) Fire hydrants, where required; Non-Residential.

On roadways, the maximum distance between fire hydrants, measured along street centerlines, shall be 1000 feet.

In addition, no point on the exterior of a commercial building may be more than 500 feet from an approved fire hydrant.

In addition, in buildings required to have a sprinkler fire protection system installed, one accessible hydrant (either public or private) will be located not more than 100 feet from the fire siamese connection. For buildings with a sprinkler system, there will be one accessible hydrant provided on each of two opposing sides of the building. The hydrant required for the sprinkler system may be counted as one of these hydrants. There shall be additional hydrants provided to meet the requirement of a maximum 500-foot distance between a hydrant and any part of the building first floor. The hydrant(s) will be situated not less than two feet and not more than 10 feet from the curb of an access road, parking area, or public road. If situated in a parking area, there will be an area of NO PARKING marked around the hydrant for an area of 15 feet on all sides.

Example: A non-residential building of a 20,000 square feet area, sprinklered, would need a minimum of two hydrants (one within 100 feet of the sprinkler siamese connection and one on the opposing side of the building). Paved access of a minimum of 20 feet in width shall be required within 100 feet of two sides of each non-residential building. Paved access roads shall be required to be within ten feet of each required fire hydrant.

Emergency access to each side of all buildings three or more stories in height shall be provided by means of an unobstructed area of at least 12 feet in width which would support the weight of a fire ladder truck. This area is not required to be a permanent roadway, but must be accessible during an emergency. Prior to completion of grading and landscaping design, the fire department should be consulted. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

7-105. <u>**Replacements**</u>. The square footage amounts referred to in certain sections of the <u>International Fire Code</u> are hereby deleted and replaced as follows:

(1) In Sections 903.2.1.1, 903.2.1.3, and 903.2.1.4 of the <u>International</u> <u>Fire Code</u> (requiring sprinkler systems to be installed at a square footage threshold), replace the number 12,000 with the number 10,000.

(2) In Section 903.2.3 of the <u>International Fire Code</u> (requiring sprinkler systems to be installed at a square footage threshold in Educational Occupancies), replace the number 12,000 with the number 10,000.

(3) In Sections 903.2.4, and 903.2.7 of the <u>International Fire Code</u> (requiring sprinkler systems to be installed at a square footage threshold), replace the number 12,000 with the number 10,000, and replace the number 24,000 with the number 20,000.

(4) In Sections 903.2.9, 903.2.9.1, and 903.2.10 of the <u>International</u> <u>Fire Code</u> (requiring sprinkler systems to be installed at a square footage threshold), replace the number 12,000 with the number 10,000. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

7-106. <u>Sprinkler requirements</u>. Sprinkler requirements are set forth in title 12, chapter 2, of the code of ordinances. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

7-107. <u>**Geographic limits**</u>. The geographic limits referred to in certain sections of the <u>International Fire Code</u> are hereby established as follows:

(1) Section 5504.3.1.1 (geographic limits in which the storage of flammable cryogenic fluids in stationary containers is prohibited): All Zones (as defined in the City of Oak Ridge Zoning Ordinance) except IND1, IND2, IND3, FIR and IMDO.

(2) Section 5704.2.9.6.1 (geographic limits in which the storage of Class I and Class II liquids in outside above-ground tanks is prohibited): All

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Zones (as defined in the City of Oak Ridge Zoning Ordinance) except IND1, IND2, IND3, FIR and IMDO.

Flammable or combustible liquids in Zones other than IND1, IND2, IND3, FIR or IMDO. This use may be allowed on review by the fire chief. Approval will depend upon an engineering analysis of the hazards involved with the use and the location of the tank with respect to property exposures.

(3) Section 5706.2.4.4 (geographic limits in which the storage of Class I and Class II liquids in above-ground tanks is prohibited): All Zones (as defined in the City of Oak Ridge Zoning Ordinance) except IND1, IND2, IND3 FIR and IMDO.

Flammable or combustible liquids in Zones other than IND1, IND2, IND3, FIR or IMDO. This use may be allowed on review by the fire chief. Approval will depend upon an engineering analysis of the hazards involved with the use and the location of the tank with respect to property exposures.

(4) Section 6104.2 (geographic limits in which the storage of liquefied petroleum gas is restricted): All Zones (as defined in the City of Oak Ridge Zoning Ordinance) except IND1, IND2, IND3, FIR and IMDO. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

7-108. <u>Appeals</u>. Appeals are made to the board of building and housing code appeals and the process is set forth in title 12, chapter 2, of the code of ordinances. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

7-109. <u>Fireworks--discharge prohibited without a permit</u>. The discharge of fireworks is prohibited within the city limits without a permit, as set forth in chapter 56, <u>Explosives and Fireworks</u>, of the <u>International Fire</u> <u>Code</u>. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

7-110. <u>Violations</u>. Section 109.3 of the <u>International Fire Code</u> is deleted in its entirety and replaced with the following provisions:

(1) Any person who shall violate any of the provisions of the <u>International Fire Code</u> adopted by this chapter or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city court or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in § 1-107 of this code of ordinances. The imposition of one (1) penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such

violations or defects within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(2) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions. (as added by Ord. #5-08, Jan. 2008, and replaced by Ord. #11-2012, Oct. 2012)

[DELETED]

(as deleted by Ord. #5-08, Jan. 2008)

[DELETED]

(as deleted by Ord. #5-08, Jan. 2008)

TITLE 8

ALCOHOLIC BEVERAGES

CHAPTER

- 1. MISCELLANEOUS.
- 2. BEVERAGES EXCEEDING FIVE PER CENT ALCOHOL -- GENERALLY.
- 3. BEVERAGES EXCEEDING FIVE PER CENT ALCOHOL -- RETAILERS GENERALLY.
- 4. BEVERAGES EXCEEDING FIVE PER CENT ALCOHOL -- RETAILER'S AND EMPLOYEE'S PERMITS.
- 5. BEVERAGES EXCEEDING FIVE PER CENT ALCOHOL --INSPECTION AND ENFORCEMENT FEE ON PURCHASES BY RETAILERS.
- 6. BEER AND OTHER LIGHT BEVERAGES -- GENERALLY.
- 7. BEER PERMITS AND MANAGER CERTIFICATES.
- 8. BEER AND OTHER LIGHT BEVERAGES -- PROHIBITIONS.
- 9. RESPONSIBLE VENDOR PROGRAM.

CHAPTER 1

MISCELLANEOUS

SECTION

8-101. Privilege tax upon sale at retail.

8-101. Privilege tax upon sale at retail.¹

(1) It is hereby declared the legislative intent that every person is exercising a taxable privilege who engages in the business of selling at retail in this city alcoholic beverages for consumption on the premises. For the exercise of such privilege, the following taxes are levied for city purposes to be paid annually, to wit:

-	Private club \$ 300	0.00
	Hotel and motel 1,000	0.00
	Restaurant, according to seating capacity, on licensed premise	es:
	75-125 seats 600	0.00
	126-175 seats	0.00
	176-225 seats 800	0.00
	226-275 seats	0.00
	276 seats and over	0.00
(2)	In the event § 57-157, Tennessee Code Annotated, is amended	d so
as to change	the schedule of taxes to be levied for exercising said privilege, the	hen

¹Municipal code reference

Privilege taxes generally: §§ 5-201--5-204.

paragraph (1) hereof shall authorize the levying of a privilege tax as established by the amended § 57-157, <u>Tennessee Code Annotated</u>.

(3) The amount of privilege taxes set out in paragraph (1) hereof shall be for one year and each privilege license shall expire on the expiration date of the retailer's state license for that year. Licenses may be renewed each year by compliance with chapter 1, title 57, <u>Tennessee Code Annotated</u>, upon payment of the above stated taxes. All privilege taxes shall be paid to the department of finance of the city and the director of the department of finance shall not be authorized to issue a privilege license until the applicant has qualified as required by chapter 1, title 57, <u>Tennessee Code Annotated</u>, to engage in such business and has exhibited to the director of finance the license issued by the Alcoholic Beverage Commission of the State of Tennessee. (1969 Code, § 4-1)

<u>BEVERAGES EXCEEDING FIVE PER CENT ALCOHOL</u> – <u>GENERALLY</u>

SECTION

8-201. Definitions.

- 8-202. Compliance with chapters 2 through 5 of this title and state law; exemptions.
- 8-203. Certificate of good moral character.
- 8-204. Aliens not to engage in sale, storage or distribution.
- 8-205. Purchases from unauthorized persons.
- 8-206. Sale to minors, prohibited.
- 8-207. [Deleted.]
- 8-208. Investigations to enforce provisions.
- 8-209. Violations.

8-201. <u>Definitions</u>. Whenever used in chapter 2 through 5 of this title, the following words and terms shall have the meanings ascribed to them in this section, unless the context requires otherwise:

(1) "Alcoholic beverage," or "beverage," "liquor" or "intoxicating liquor" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits and wine 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 (5) per cent by weight, or less.

(2) "Domicile" means and includes actual physical residence accompanied by an intention to make such residence a permanent "home."

(3) "License" means the license or permit issued pursuant to chapter 1, title 57, of <u>Tennessee Code Annotated</u>.

(4) "Minor" means a person under twenty-one (21) years of age.

(5) "Permit" means a permit required or issued pursuant to chapters 2 through 5 of this title and "permittee" means any person to whom such a permit has been issued pursuant to chapters 2 through 5 of this title.

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

(7) "Retailer" or "retail dealer" means any person who sells at retail any beverage for the sale of which a permit is required under the provisions of 2 through 5 of this title. (1969 Code, § 4-11, as amended by Ord. #8-99, May 1999, § 1)

8-202. <u>Compliance with chapters 2 through 5 of this title and</u> <u>state law; exemptions</u>. It shall be unlawful for any person to store, transport, sell, give away, distribute, possess, or receive alcoholic beverages in the city unless the provisions of chapters 2 through 5 of this title and the laws of the Change 1, December 18, 2006

state have been complied with. Nothing in chapters 2 through 5 of this title regulates the transportation, storage, sale, distribution, possession, or receipt of or tax upon any beverage of alcoholic content of five per cent (5%) by weight or less, and no ordinance related thereto is modified by chapters 2 through 5 of this title. (1969 Code, § 4-12)

8-203. <u>Certificate of good moral character</u>. When application is made for the certificate of good moral character required by <u>Tennessee Code</u> <u>Annotated</u>, § 57-121 as a condition to the issuance or renewal of a state alcoholic beverage license, such certificate shall be signed by the mayor, upon direction of a majority of the city council at a regularly scheduled meeting and conditioned upon the applicant fulfilling the following requirements:

(1) The applicant who is to be in actual charge of the business shall be of good moral character and personally known to the mayor and a majority of the city councilmen, or

(2) If a corporation, the executive officers or those in control shall be of good moral character and personally known to the mayor and a majority of the city councilmen, or

(3) The mayor and a majority of the councilmen shall have made careful investigation of the applicant's general character and, from such investigation, found it to be good, and that, in his or their opinion, the applicant will refrain from a violation of this chapters 2 through 5 of this title, and

(4) The applicant has obtained the necessary permits as required by this title, and

(5) The applicant has not violated any of the provisions of chapters 2 through 5 of this title or the laws of the state and of the United States which regulate or control alcoholic beverages, within ten (10) years prior to the date of the application. (1969 Code, \S 4-13)

8-204. <u>Aliens not to engage in sale, storage or distribution</u>. No person shall own or be employed in the storage, sale, or distribution of alcoholic beverages, unless he or she is a citizen of the United States. (1969 Code, § 4-14)

8-205. <u>Purchases from unauthorized persons</u>. It shall be unlawful for any person to buy or purchase any alcoholic beverages from any person who, to the knowledge of the buyer or purchaser, does not hold the appropriate permit or license under the provisions chapters 2 through 5 of this title or under the laws of the state authorizing the sale of such beverages to him or her. (1969 Code, § 4-15)

8-206. <u>Sale to minors, prohibited</u>. No retailer or any other person shall sell or give away any alcoholic beverages to a minor. (1969 Code, § 4-16, as replaced by Ord. #17-06, Sept. 2006)

8-207. [Deleted.] (1969 Code, § 16.1, as amended by Ord. #8-99, May 1999, § 2, and deleted by Ord. #17-06, Sept. 2006)

8-208. <u>Investigations to enforce provisions</u>. The city manager is authorized to examine the books, papers and records of any retail dealer in alcoholic beverages for the purpose of determining whether the inspection fees and all other fees imposed by chapters 2 through 5 of this title have been fully paid, and shall have the power to investigate and examine according to law any premises where any alcoholic beverage is possessed or stored for the purpose of sale or sold, for the purpose of determining whether the provisions of chapters 2 through 5 of this title 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 a permit under chapters 2 through 5 of this title or the refusal to issue a permit under chapters 2 through 5 of this title. (1969 Code, § 4-17)

8-209. <u>Violations</u>. Any person violating any provision of chapters 2 through 5 of this title shall, upon conviction, be punished as provided in § 1-107 of this code. Furthermore, any violation of chapters 2 through 5 of this title shall be grounds for suspension, denial, or revocation of the retail dealer's permit. This penalty shall be in addition to any other penalty provided by any section of chapters 2 through 5 of this title. (1969 Code, § 4-18)

<u>BEVERAGES EXCEEDING FIVE PER CENT ALCOHOL</u> – <u>RETAILERS GENERALLY</u>

SECTION

- 8-301. Privilege license.
- 8-302. State licenses and permits.
- 8-303. Districts in which stores permitted.
- 8-304. Operation of more than one establishment by same person prohibited.
- 8-305. Government officials and employees or their relatives not to have interest in business.
- 8-306. Manufacturers, brewers and wholesalers not to have interest in business.
- 8-307. Disclosure of persons having interest in business.
- 8-308. Business to be located on ground floor; entrances to store; visibility into store.
- 8-309. Seating facilities prohibited on premises; exception.
- 8-310. Television, pinball machines, etc., prohibited on premises.
- 8-311. Political advertising material prohibited on premises.
- 8-312. Keeping beverages in unsealed bottle or container.
- 8-313. Unstamped merchandise.
- 8-314. Copy of council rules and regulations to be kept on premises.
- 8-315. Copy of § 8-209 to be posted on premises.
- 8-316. Price lists to be posted on premises.
- 8-317. Employment of person convicted of certain crimes prohibited.
- 8-318. Purchases from other than licensed wholesaler prohibited.
- 8-319. Hours of sale.
- 8-320. Sales by persons under the age of eighteen (18).
- 8-321. Sales to person intoxicated or accompanied by intoxicated person.
- 8-322. Sales on credit.
- 8-323. Sale of more than one case to same person; record of case sales.
- 8-324. Samples and tastings.
- 8-325. Solicitation of orders.

8-301. <u>Privilege license</u>. Before any retailer engages in the retail sale of alcoholic beverages, he or she shall obtain a privilege license, as authorized by state law, from the finance department of the city, in the amount of two hundred fifty dollars (\$250.00). This license shall expire on December thirty-first of the year in which it was issued and must be renewed each year thereafter. (1969 Code, § 4-24)

8-302. <u>State licenses and permits</u>. In addition to the permits and licenses required by chapters 2 through 5 of this title, no person shall engage in

the retail alcoholic beverage business unless all the necessary state licenses and permits have been obtained. $(1969 \text{ Code}, \S 4-25)$

8-303. <u>Districts in which stores permitted</u>. It shall be unlawful for any person to operate or maintain a liquor store for the retail sale of alcoholic beverages in the city, unless such store is located in an area zoned B-2, General Business District; B-1, Neighborhood Business District; or UB-2, Unified Business District. (1969 Code, § 4-26)

8-304. <u>Operation of more than one establishment by same person</u> <u>prohibited</u>. No person shall, directly or indirectly, operate more than one place of business for the retail sale of alcoholic beverages. The word "indirectly" shall include and mean any kind of interest in another place of business by way of stock ownership, loan, partner's interest, or otherwise. (1969 Code, § 4-27)

8-305. <u>Government officials and employees or their relatives not</u> to have interest in business. (1) It shall be unlawful for any person who is the holder of any public office, either appointed or elected, or who is a public employee, either national, state, city or county, and regardless of whether or not such person receives monetary compensation for holding such position, or for any person in such officer's or employee's immediate family, including the spouse, sibling, children and parents, whether related by blood or marriage, to have any interest in any retail alcoholic beverage business, directly or indirectly, either proprietary or by means of money, loan, mortgage, lien or lease, or to participate in the profits of any such business in any manner whatsoever. This provision may be waived as to noncity employees, where in the opinion of city council, said employee does not occupy a position which could result in the employee's or the retailer's receiving certain advantages or considerations in regard to the regulation of retailers.

(2) This section shall not prohibit the city from owning and leasing any land and improvements thereon to any person who qualifies for a permit under chapters 2 through 5 of this title. (1969 Code, § 4-28)

8-306. <u>Manufacturers, brewers and wholesalers not to have</u> <u>interest in business</u>. No manufacturer, broker, or wholesaler shall have any interest in the business or building containing a retail alcoholic beverage store holding a permit under chapters 2 through 5 of this title.

8-307. <u>Disclosure of persons having interest in business</u>. It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail business holding a permit under chapters 2 through 5 of this title, unless his or her interest in the business and the nature, extent, and character thereof shall appear on the application for the retail dealer's permit, or if the interest is acquired after the issuance of a permit, unless it shall be fully disclosed to the city council and approved by it. Where such interest is owned by such person on or before the application for any permit, the burden shall be upon such person to see that this section is fully complied with, regardless of who prepares and signs the application. If the interest is acquired after the issuance of a permit, the burden of such disclosure of the acquisition of such interest shall be upon both the seller and the purchaser. (1969 Code, § 4-30)

8-308. <u>Business to be located on ground floor; entrances to store;</u> <u>visibility into store</u>. No retail alcohol beverage store shall be located except on the ground floor and it shall have one main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereafter provided. When a retail store is located on the corner of two (2) public streets, such retail store may maintain a door opening on each of the public streets. Any salesroom adjoining the lobby of a hotel or other public building may maintain an additional door into such lobby, so long as same shall be opened to the public. In addition, to the fullest extent consistent with the nature of the establishment, full, free and unobstructed vision shall be afforded from the street and public highway to the interior of the place of sale or dispensing of alcoholic beverages. (1969 Code, § 4-31)

8-309. <u>Seating facilities prohibited on premises; exception</u>. No seating facilities shall be provided at any retail establishment selling alcoholic beverages, except those provided for employees. (1969 Code, § 4-32)

8-310. <u>Television, pinball machines, etc., prohibited on premises</u>. No television, pinball machines, or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment selling alcoholic beverages. (1969 Code, § 4-33)

8-311. <u>Political advertising material prohibited on premises</u>. No political advertising of or for any candidate or party by poster, handout card, matches, or other similar election campaign material shall be placed or dispensed on the premises of a retail store holding a permit under chapters 2 through 5 of this title. (1969 Code, § 4-34)

8-312. <u>Keeping beverages in unsealed bottle or container</u>. No retailer of alcoholic beverages shall keep or permit to be kept upon the premises any alcoholic beverages in any unsealed bottles or other unsealed containers.

8-313. <u>Unstamped merchandise</u>. No retail permittee shall own, store, or possess upon the premises any unstamped merchandise required by the laws of the State of Tennessee to have affixed thereto revenue stamps of the state. (1969 Code, § 4-36)

8-314. Copy of council rules and regulations to be kept on premises. Each person granted a retailer's permit under chapters 2 through 5 of this title shall promptly procure and keep at his or her place of business a copy of the rules and regulations promulgated by the city council pursuant to chapters 2 through 5 of this title. (1969 Code, § 4-37)

8-315. <u>Copy of § 8-209 to be posted on premises</u>. Each retail dealer in alcoholic beverages shall have at least one (1) copy of § 8-209 of this code conspicuously displayed within the interior of the retailer's premises. (1969 Code, § 4-38)

8-316. <u>Price lists to be posted on premises</u>. Each retail dealer in alcoholic beverages shall have conspicuously displayed within the interior of the retail dealer's premises not less than four (4) copies of a printed price list of beverages offered for sale. (1969 Code, § 4-39)

8-317. <u>Employment of person convicted of certain crimes</u> <u>prohibited</u>. No retailer shall employ, in the sale, storage, or distribution of alcoholic beverages, any person who, within ten (10) years prior to the date of his or her employment, shall have been convicted of a felony involving moral turpitude or of any law regulating alcoholic beverages and, in case an employee should be so convicted, he or she shall immediately be discharged. (1969 Code, § 4-40)

8-318. <u>Purchases from other than licensed wholesaler prohibited</u>. No retailer shall purchase any alcoholic beverages for resale from any person other than a licensed wholesaler. (1969 Code, § 4-41)

8-319. <u>Hours of sale</u>. (1) Retail dealers in alcoholic beverages shall not engage in the sale of such beverages except between the hours of 8:00 A.M. and 11:00 P.M. on weekdays and Saturdays.

(2) No retailer shall sell or give away any alcoholic beverage between 11:00 P.M. on Saturday and 8:00 A.M. on the following Monday of each week. (1969 Code, § 4-42)

8-320. Sales by persons under the age of eighteen (18). It shall be unlawful for any retailer or employee for whom a permit has been issued under chapters 2 through 5 of this title to permit any person under the age of eighteen (18) to engage in the sale of alcoholic beverages on the retailer's premises. (Ord. #8-99, May 1999, § 3)

8-321. Sales to persons intoxicated or accompanied by intoxicated person. No retailer shall sell or give away any alcoholic beverages to any person who is drunk, nor shall any retailer sell or give away any alcoholic

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beverages to any person accompanied by a person who is drunk. (1969 Code, § 4-45)

8-322. <u>Sales on credit</u>. No holder of a permit under chapters 2 through 5 of this title for the sale of alcoholic beverages at retail shall sell, deliver, or cause, permit, or procure to be sold or delivered any alcoholic beverages on credit. (1969 Code, § 4-46)

8-323. Sale of more than one case to same person; record of case sales. No retailer shall sell, on any one day to any one individual, more than one case of alcoholic beverages unless the purchaser is known to the retailer and the retailer believes in good faith that the purchaser is not engaged in the unlawful sale of alcoholic beverages. The retailer shall keep a record of all transactions for the sale of two (2) or more cases of alcoholic beverages, and such records shall be kept on forms and in the manner prescribed by the city manager or the city manager's duly authorized representative. (1969 Code, § 4-47)

8-324. <u>Samples and tastings</u>. Retail liquor stores may offer samples and tastings provided such samples and tastings are conducted in accordance with applicable state law (<u>Tennessee Code Annotated</u>, § 57-3-404(h)). Otherwise, no alcoholic beverages shall be consumed on the premises of the seller. (1969 Code, § 4-48, as replaced by Ord. #11-2017, Sept. 2017)

8-325. <u>Solicitation of orders</u>. No holder of a retailer's permit issued under chapters 2 through 5 of this title shall employ any canvasser or solicitor for the purpose of receiving an order from a customer for any alcoholic beverages at the residence or place of business of such consumer, nor shall any such permittee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. (1969 Code, \S 4-49)

<u>BEVERAGES EXCEEDING FIVE PER CENT ALCOHOL</u> – <u>RETAILER'S AND EMPLOYEE'S PERMITS</u>

SECTION

- 8-401. Permit required for retailers.
- 8-402. State permit required for employees.
- 8-403. Application and amount of fee retailer's permit.
- 8-404. Certificate of good moral character required.
- 8-405. By whom fee payable.
- 8-406. Deleted.
- 8-407. Retailer's permit not to issue to government officers and employees or their relatives; exception.
- 8-408. Not to issue if premises close to church, school, etc.
- 8-409. Not to issue to persons with criminal record.
- 8-410. Not to issue permits to persons under the age of eighteen (18).
- 8-411. Issuance.
- 8-412. Retailer's permit to be posted.
- 8-413. Transfer.
- 8-414. Expiration and renewal.
- 8-415. Suspension and revocation generally.
- 8-416. Suspension and revocation notice and hearing.
- 8-417. Suspension and revocation effective date.

8-401. <u>Permit required - for retailers</u>. No person shall engage in the business of the retail sale of alcoholic beverages unless a retail liquor dealer's permit has been obtained in accord with this chapter. (1969 Code, § 4-55)

8-402. State permit required - for employees. No employee of any retail establishment shall dispense alcoholic beverages therein, unless he or she has a permit issued in accordance with chapter 57 of the <u>Tennessee Code Annotated</u>, authorizing him or her to serve as an employee in a retail alcoholic beverage establishment. No person holding a retailer's permit under this chapter shall employ any person to dispense alcoholic beverages, unless he or she has such employee's permit. Such employee permit shall at all times be upon the premises, subject to inspection by the city manager or any police officer. (1969 Code, § 4-56)

8-403. <u>Application and amount of fee - retailer's permit</u>. Any person desiring to sell, give away or dispose in any manner alcoholic beverages to patrons or customers in sealed packages only, and not for consumption on the premises, shall make application to the city council for a retailer's permit, which application shall be in writing and verified on forms hereby authorized to be

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prescribed and furnished by the council. A fee of twenty dollars (\$20.00) shall accompany each application for a retailer's permit. (1969 Code, § 4-57)

8-404. <u>Certificate of good moral character required</u>. A retailer's permit shall be issued only to persons possessing a certificate of good moral character, as described in § 8-203. (1969 Code, § 4-58)

8-405. <u>By whom fee payable</u>. The permit fee for every permit issued under this chapter shall be payable by the person making application for such permit and to whom it is issued, and no other person shall pay for any permit issued under this chapter. In addition to all other penalties provided in this chapter, a violation of this section shall authorize and require the revocation of the permit, the fee for which was paid by another, and also the revocation of the permit, if any, of the person so paying for the permit of another. (1969 Code, \S 4-59)

8-406. <u>Deleted</u>. (1969 Code, § 4-60, as deleted by Ord. #2-2017, Feb. 2017)

8-407. <u>Retailer's permit not to issue to government officers and</u> <u>employees or their relatives; exception</u>. (1) No retailer's permit shall be issued under this chapter to a person, or to anyone in his or her immediate family, including spouse, sibling, children and parents, whether related by blood or marriage, who is a holder of a public office, either appointed or elected, or who is a public employee, either national, state, city or county, and regardless of whether or not that person receives any monetary compensation by holding such position.

(2) The foregoing shall not apply to uncompensated appointees to municipal boards and commissions, where the boards or commissions on which such appointees serve have no duty to vote for, overlook, or in any manner superintend the sale of alcoholic beverages. (1969 Code, § 4-61)

8-408. Not to issue if premises close to church, school, etc. No retailer's permit will be granted under this chapter when, in the opinion of the city council, as expressed by a majority vote thereof, the premises covered by such permit would be in too close proximity to a church, school, or public institution. (1969 Code, § 4-63)

8-409. Not to issue to persons with criminal record. No retailer's permit shall be issued under this chapter to a person who has been convicted of a felony involving moral turpitude or of any offense under the laws of the State of Tennessee, or any other state or of the United States, prohibiting or regulating the sale, possession, transportation, storing, manufacturing, or otherwise handling alcoholic beverages, within ten (10) years prior to the time

he or she or the concern with which he or she is connected makes application for the permit. In the case of any such conviction occurring after a permit has been issued and received, the permit shall immediately and automatically be revoked, if such convicted felon is an individual permittee, and if not, the partnership, corporation, or association with which he or she is connected shall immediately discharge him or her. (1969 Code, § 4-64)

8-410. <u>Not to issue permits to persons under the age of eighteen</u> (18). No permit for a retailer or an employee shall be issued under this chapter to any person under the age of eighteen (18). (Ord. #8-99, May 1999, § 4)

8-411. <u>Issuance</u>. The city council shall issue the retailer's permit required by this chapter. No such permit shall be issued, unless all requirements of chapters 2 through 5 of this title are met, or in violation of any provision of chapters 2 through 5 of this title. (1969 Code, § 4-66)

8-412. <u>Retailer's permit to be posted</u>. A person granted a retailer's permit under this chapter shall, before being qualified to do business, display and post and keep displayed and posted such permit, in the most conspicuous place on the premises. (1969 Code, § 4-67)

8-413. <u>**Transfer**</u>. No holder of any permit issued under this chapter shall sell, assign, or transfer such permit to any other person. There shall be no transfer of any retail dealer's permit from one location to another, except in special instances to be fixed by rule or regulation of the city council. (1969 Code, \S 4-69)

8-414. Expiration and renewal. Each retailer's permit issued under this chapter shall expire twelve (12) months following the date of issuance, whereupon the permittee must reapply for a new permit upon the same conditions and procedures as for the original permit. (1969 Code, § 4-70)

8-415. <u>Suspension or revocation - generally</u>. The city council may revoke any retailer's permit issued under chapters 2 through 5 of this title upon any of the grounds stated in the various sections of chapters 2 through 5 of this title. Whenever the city council is authorized to revoke such a permit, except in those cases where revocation is mandatory, the council may, if, in its discretion, it feels that revocation of the permit is too drastic a penalty, suspend the permit. Whenever the city council revokes such a permit, it shall certify to the state alcoholic beverage commission such revocation, indicating the violation(s) upon which such revocation is made. Such certification shall be made upon any order of revocation becoming effective. (1969 Code, § 4-72)

8-416. <u>Suspension or revocation - notice and hearing</u>. (1) Before the city council shall revoke or suspend any retailer's permit issued under this chapter, at least ten (10) days' notice of such proposed or contemplated action by the council shall be given to the permittee affected. This notice shall be in writing and shall contain a statement of the grounds or reasons for the proposed or contemplated action of the council, and it shall be served upon the permittee in person or by registered mail sent to the permittee's last known address. The council shall, in such notice, appoint a time and place when and at which the permittee shall be heard as to why the permit shall not be revoked or suspended. The permittee shall, at such time and place, have the right to produce evidence on his or her behalf and to be represented by counsel.</u>

(2) All hearings provided for in this section shall be held publicly by the city council, and the council shall make findings of fact, conclusions of law and an order based thereon. The city council may make and shall publish such other and further procedural rules and regulations not inconsistent with this section, as it deems proper governing any hearing provided for herein.

(3) The council is hereby empowered to subpoena witnesses and compel their attendance and the production of records, memoranda, papers, and other documents at any hearing authorized under this section. The council shall administer oaths to any such witnesses. All parties to the proceeding, including the permittee, shall have the right to have a subpoena issued to compel the attendance of all witnesses and the production of all records, memoranda, papers, and other documents deemed by such party to be necessary for a full and complete hearing.

(4) At all hearings provided for in this section, the city council shall provide a stenographer to take stenographic record of the evidence and testimony adduced at such hearing. The permittee shall be entitled to a copy of such stenographic record upon application therefor and upon paying a reasonable cost thereof, to be fixed by the council. (1969 Code, § 4-73)

8-417. Suspension or revocation - effective date. All orders of the city council revoking or suspending a retailer's permit issued under this chapter shall take effect fifteen (15) days from the date thereof. (1969 Code, § 4-74)

<u>BEVERAGES EXCEEDING FIVE PER CENT ALCOHOL</u> --<u>INSPECTION AND ENFORCEMENT FEE ON PURCHASES</u> <u>BY RETAILERS</u>

SECTION

- 8-501. Levied; amount.
- 8-502. Collection and transmittal to finance department; wholesaler's administrative fee.
- 8-503. Determination of wholesale price.
- 8-504. Report forms.
- 8-505. Rules and regulations to facilitate reporting and collection.
- 8-506. Failure to pay or make report.

8-501. <u>Levied; amount</u>. There is hereby levied an inspection and enforcement fee of five per cent (5%) on the gross purchase price of alcoholic beverages purchased by retail dealers in the city for the purpose of resale. (1969 Code, § 4-80)

8-502. <u>Collection and transmittal to finance department</u>; <u>wholesaler's administrative fee</u>. (1) The inspection and enforcement fee provided for in this chapter shall be collected by the wholesaler and transmitted to the finance department of the city not later than the 20th day of each month for the preceding month.

(2) The wholesaler shall be entitled to an administrative fee equal to five per cent (5%) of the total monies collected and remitted to the city under this chapter. (1969 Code, § 4-81)

8-503. <u>Determination of wholesale price</u>. For the purpose of determining the amount of the inspection and enforcement fee provided for in this chapter, the wholesale price of alcoholic beverages shall be determined at all times by reference to the wholesale price list issued to retailers by wholesalers. (1969 Code, § 4-82)

8-504. <u>**Report forms**</u>. The finance department shall prepare and make available to every wholesaler doing business in the city sufficient forms for the monthly report of the inspection fees provided for in this chapter. (1969 Code, \S 4-83)

8-505. <u>Rules and regulations to facilitate reporting and collection</u>. The city manager is authorized to promulgate reasonable rules and regulations to facilitate the reporting and collection of inspection fees under this chapter. (1969 Code, § 4-84) **8-506.** Failure to pay or make report. It shall be unlawful for any wholesaler doing business in the city to fail to pay the inspection fees provided for in this chapter and make the required reports accurately and within the time prescribed. Any violation of this section by any wholesaler doing business in the city shall result in a penalty of ten per cent (10%) of the fee due the city, which shall be payable to the city. (1969 Code, § 4-85)

BEER AND OTHER LIGHT BEVERAGES - GENERALLY

SECTION

- 8-601. Definitions.
- 8-602. Application of provisions.
- 8-603. Beer permit board.
- 8-604. Hours of sale and consumption.
- 8-605. Enforcement.
- 8-606. Permittees are responsible for premises.
- 8-607. Distance requirement.
- 8-608. Growlers.

8-601. <u>Definitions</u>. For purposes of chapters 6, 7, and 8 of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Beer" means beverages defined as beer by <u>Tennessee Code</u> <u>Annotated</u>, § 57-5-101.

(2) "Board" means the Beer Permit Board for the City of Oak Ridge, Tennessee.

(3) "Bonafide charitable or non-profit organization" means any corporation which has been recognized as exempt from federal taxes under Section 501(c) of the Internal Revenue Code.

(4) "Bonafide political organization" means any political campaign committee as defined by <u>Tennessee Code Annotated</u>, § 2-10-102 or any political party as defined in <u>Tennessee Code Annotated</u>, § 2-13-101.

(5) "City" means the City of Oak Ridge, Tennessee.

(6) "City Manager" means the City Manager for the City of Oak Ridge or the City Manager's duly authorized designee.

(7) "Club" means an organization with membership having voting rights in the transaction of the business of the organization and paying dues, and having a purpose for being organized other than applying for a beer permit. For the purpose of determining if a club applying for a permit complies with this definition, the board shall have the right to inspect the charter, bylaws, books or other relevant documents of the club applying for a permit.

(8) "Manager" means the individual(s) responsible for the direct daily operations of the business.

(9) "Manager certificate" means any manager certificate issued pursuant to chapters 6, 7, and 8 of this title.

(10) "Minor" means any person who has not attained the age of twentyone (21) years.

(11) "Permit" means any beer permit issued pursuant to chapters 6, 7, and 8 of this title.

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(12) "Permittee" means any person to whom a permit has been issued pursuant to chapters 6, 7, and 8 of this title.

(13) "Premises" means a building, or a portion thereof, and property, including the parking and common areas, that is utilized for a particular business enterprise.

(14) "Person" means any individual, firm, partnership, corporation or other legal entity.

(15) "Sell" means and includes taking or receiving an order for, keeping or exposing for sale, delivering for value, keeping for intent to sell and trafficking in beer.

(16) "Show cause hearing" means any hearing scheduled by the board for the purpose of allowing the permittee or manager an opportunity to show cause as to why action should not be taken against his or her permit or manager certificate, respectively. (Ord. #3-01, June 2001, as amended by Ord. #8-2016, Aug. 2016)

8-602. <u>Application of provisions</u>. The provisions of chapters 6, 7, and 8 of this title shall apply to beer and shall not apply to any beverage with an alcoholic content exceeding five percent (5%) by weight. (Ord. #3-01, June 2001)

8-603. <u>Beer permit board</u>. (1) (a) <u>Creation of board</u>. There is hereby created a beer permit board which shall consist of seven (7) citizens of at least twenty-two (22) years of age who have resided within the corporate limits of the city for a period of at least two (2) years immediately preceding their election by the city council, who shall hold office for a period of three (3) years each, and whose respective terms shall expire on the first Thursday of January of their respective terms. Members of the city council and city employees shall not be eligible to serve on the board. The board shall organize by the election of a chairperson and a secretary.

(b) As of April 1, 2011, all current member's terms shall be extended through to the following December 31, and all subsequent terms shall commence on a date established by resolution of city council with the term lengths and staggered appointments remaining the same.

(2) <u>Meetings</u>. The board shall meet at such times as the members shall prescribe. All meetings shall be held in the municipal building at an hour fixed by the board. Minutes shall be kept of the meetings in a permanent form and a record shall be kept of the action of the board with respect to every application for a permit under chapters 6, 7, and 8 of this title. The presence of four (4) members of the board shall constitute a quorum and the concurring vote of a majority present at any meeting of the board shall be necessary for approval or revocation of any permit or any other action of the board. The minute book of the board shall be a public record, and shall become a part of the records of the city clerk.

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(3) <u>Powers</u>. The board is hereby empowered, subject to the standards and procedures set forth in chapters 6, 7, and 8 of this title, to issue, revoke, suspend, and impose civil penalties on all permits for the sale of beer in the city as well as to issue and revoke manager certificates. The board is empowered to adopt such reasonable rules and regulations as it may deem necessary and proper for the operation and supervision of the businesses of persons holding permits under chapters 6, 7, and 8 of this title, in conformity with the provisions of chapters 6, 7, and 8 of this title and with chapter 5 of title 57, <u>Tennessee Code</u> Annotated. A copy of the rules and regulations shall be filed with the city clerk.

(4) <u>Subpoenas</u>. (a) <u>Issuance and procedure</u>. The board is hereby empowered to issue subpoenas to compel attendance of witnesses and testimony of relevant facts for any duly scheduled show cause hearing. Upon request of the city and/or any party to a show cause hearing, the chairperson of the board, or secretary in the chairperson's absence, may issue subpoenas to compel attendance and testimony of witnesses possessing material and relevant information relating to any duly scheduled show cause hearing. Subpoenas shall be served by officers of the Oak Ridge Police Department or any other lawful officer.

(b) <u>Disobedience</u>. Willful disobedience to any subpoena issued and served in accordance with § 8-603(4) is hereby declared unlawful. Proceedings for violation of this section shall be heard in city court. (Ord. #3-01, June 2001, as amended by Ord. #3-11, March 2011)

8-604. <u>Hours of sale and consumption</u>. The legal hours for the sale of beer are hereby established for the following classes of permits issued under chapters 6, 7, and 8 of this title, and no permittee, manager or employee shall sell, give away, cause to be sold or given away or allow to be consumed or opened for consumption any such beverage on or about the premises beyond the hours herein prescribed:

(1) <u>Class A permits</u>. Hours of sale shall be from 7:00 A.M. until 3:00 A.M. every day except that beer shall not be sold on Sunday after 3:00 A.M.

(2) <u>Class B permits</u>. Hours of sale shall be from 6:00 A.M. until 3:00 A.M. on all days.

(3) <u>Class C permits</u>. Hours of sale shall be from 7:00 A.M. until 3:00 A.M. all days except on Sunday when hours of sale shall be from 10:00 A.M. until 3:00 A.M.

(4) <u>Class D permits</u>. Hours of sale shall be from 7:00 A.M. until 3:00 A.M. all days except on Sunday when hours of sale shall be from 10:00 A.M. until 3:00 A.M.

(5) <u>Class E permits</u>. Hours of sale shall be such hours set by the board between 7:00 A.M. until 3:00 A.M. all days except Sunday when hours of sale shall be between 10:00 A.M. and 3:00 A.M. (Ord. #3-01, June 2001, modified)

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8-605. Enforcement. The city manager shall have full power to enforce the provisions of chapters 6, 7, and 8 of this title and to investigate reported violations thereof and, for this purpose, is hereby authorized to utilize the full facilities of the city's police department and such other inspection agencies of the city as the city manager may deem proper. A complete report shall be made of each investigation in writing, one copy to be furnished to the city's legal department and the legal department shall furnish a copy to the board. The city manager shall have the right of entrance on any business premises covered by a permit issued under chapters 6, 7, and 8 of this title, during normal business hours, for the purpose of investigation and inspection for compliance with the provisions of chapters 6, 7, and 8 of this title. (Ord. #3-01, June 2001)

8-606. <u>Permittees are responsible for premises</u>. Permittees shall be responsible for compliance with the provisions of chapters 6, 7, and 8 of this title for all of the premises under the control of such permittee, both inside and outside, including parking lots, open areas, and such other common areas as the permitted premises is entitled to use. (Ord. #3-01, June 2001)

8-607. <u>Distance requirement</u>. (1) Effective May 13, 1999, section 3.14(d) of the zoning ordinance contains a distance requirement that is applicable to night clubs, dance clubs, taverns, clubs (private), lodges and similar uses, as those terms are defined in the zoning ordinance. This section requires that no pre-existing school; place of worship; other existing night club, dance club, tavern, club (private), lodge or similar establishment; or residential dwelling unit be located within two hundred fifty (250) feet of the proposed establishment.

(2) This distance requirement is applicable in the event an establishment is being reviewed by the board of zoning appeals, the planning commission, or city staff for a special exception, site review, or a certificate of occupancy. For establishments with existing beer permits, this distance requirement cannot be applied retroactively to revoke a valid beer permit. For establishments seeking a beer permit, this distance requirement must be applied in accordance with <u>Tennessee Code Annotated</u>, § 57-5-109 regarding proximity to schools, churches, and places of public gathering. (as added by Ord. #7-05, June 2005)

8-608. <u>Growlers</u>. Growlers may be sold under an off-premises beer permit in accordance with the provisions of this section. The term "growler" means a container not to exceed sixty-four ounces (64 oz.) that is filled by the permit holder's employee with beer. Growlers must be filled in a manner that is sanitary and meets all applicable food and alcohol handling laws and standards. Each growler must be securely sealed and removed from the premises in its original sealed condition. Each growler shall be sealed in such a manner that one can tell if it has been opened after having been sealed (ex. Change 5, June 11, 2018

heat shrink plastic or locking caps). Consumption of beer from growlers on premises is strictly prohibited, except samples of tap beer offered for sale in growlers may be made available, however, individual samples shall not exceed one ounce (1 oz.) per sample and no one (1) individual may be offered or consume more than four (4) samples per business day. (as added by Ord. #8-2016, Aug. 2016)

CHAPTER 7

BEER PERMITS AND MANAGER CERTIFICATES

SECTION

- 8-701. Permit required.
- 8-702. Classes of permits.
- 8-703. Application generally.
- 8-704. Fees.
- 8-705. Grounds for denial.
- 8-706. Issuance.
- 8-707. Posting.
- 8-708. Privilege tax.
- 8-709. Training of employees.
- 8-710. Expiration when permittee ceases to operate businesses.
- 8-711. Manager certificate.
- 8-712. Suspension, revocation and civil penalty; actions against permits.
- 8-713. Revocation of manager certificates.

8-701. <u>Permit required</u>. (1) It is unlawful to operate any business engaged in the sale, distribution, manufacture or storage of beer within the city without obtaining a permit as provided in chapters 6, 7, and 8 of this title.

(2) Permits shall be issued by the city in the name of the owner of the business or other entity responsible for the premises for which the permit is sought, whether a person, firm, corporation, joint-stock company, syndicate, association, or governmental entity where the governing body has authorized such sales of beer.

(3) No permit shall be required where beer is sold or distributed at and during such events as company, group or organizational picnics, parties, dinners, ceremonies or other such occasions where such sale or distribution is made in conjunction with such event and only to participants or members of such company, group or organization, and not to the general public; provided, further, that such sale or distribution is not made for profit other than the recovery of the cost or expense of such occasion or event, and provided further than such events do not exceed a twelve (12) hour period and do not exceed four (4) such events in a twelve (12) month period.

(4) A permit shall be valid:

(a) Only for the permittee to whom the permit is issued and cannot be transferred to another person or entity. If the permittee is a corporation, a change in ownership shall occur when control of at least fifty percent (50%) of the stock of the corporation is transferred to a new owner;

(b) Only for a single location, except as provided in § 8-701(5) and cannot be transferred to another location. A permit shall be valid for

all decks, patios and other outdoor serving areas that are contiguous to the exterior of the building in which the business is located and that are operated by the business, unless restricted by the board; and

(c) Only for a business operating under the name identified in the permit application.

(5) Where a permittee operates two (2) or more restaurants or other businesses within the same building, the permittee may in the permittee's discretion operate some or all such businesses pursuant to the same permit.

(6) A permittee must return his or her permit to the city within five (5) days of termination of the business, change in ownership, relocation of the business or change of the business's name; provided, that notwithstanding the failure to return a permit, a permit shall expire on termination of the business, change in ownership, relocation of the business or change of the business's name.

(7) It is unlawful for any person to sell, distribute or manufacture beer without having a valid certificate indicating that purchases of beer by that person are "for resale" as that term is used in <u>Tennessee Code Annotated</u>, § 67-6-102(24). Within ten (10) days after being issued a permit to sell, distribute or manufacture beer, a person shall file with the city and with each person from whom the person buys beer a copy of a valid certificate indicating that the purchases of beer are "for resale" as that term is used in <u>Tennessee Code Annotated</u>, § 67-6-102(24), and shall subsequently maintain at all times a valid resale certificate on file with the city and with each person buys beer.

(8) A permit is not required for homemade beer when such beer is made, consumed, stored, and transported in accordance with the limitations set forth in <u>Tennessee Code Annotated</u>, § 57-5-111. (Ord #3-01, June 2001, as amended by Ord. #8-2016, Aug. 2016)

8-702. <u>Classes of permits</u>. There shall be six (6) classes of permits issued under chapters 6, 7, and 8 of this title, as follows:

(1) <u>Class A</u>. A manufacture's permit to a manufacturer of beer for the manufacture, possession, storage, sale, distribution and transportation of the product of such manufacturer, not to be consumed by the purchaser upon or near the premises of such manufacturer unless such manufacturer also possesses an on-premises beer permit.

(2) <u>Class B</u>. An "off-sale" (off-premises consumption) permit to any person or legal organization engaged in the sale of beer where beer is not to be consumed by the purchaser upon or near the premises of such seller.

(3) <u>Class C</u>. An "on-sale" (on-premises consumption) permit to any person or legal organization engaged in the sale of beer where beer is consumed by the purchaser or guests upon or off the premises of the seller.

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(4) <u>Class D</u>. A hotel or club "on-" and "off-" sale permit to any such person or legal organization engaged in the sale of beer where beer is to be consumed by the purchaser or guests upon or off the premises of the seller.

(5) <u>Class E</u>. A "special occasion permit" to bonafide charitable, nonprofit or political organizations for special events, not to exceed four (4) events in any twelve (12) month period.

(6) <u>Class F</u>. A combined, dual "on-sale" (on-premises consumption) and "off-sale" (off-premises consumption) permit to any person or legal organization engaged in the sale of beer where beer is to be consumed by the purchaser upon or off the premises of the seller. While not a permit specifically for catering businesses, this permit classification will be the permit applied for by catering businesses.

Such permit shall not be issued for longer than a seventy-two (72) hour period, subject to such restrictions and hours of sale imposed by the board. The application for such permit shall state whether the applicant is a charitable, nonprofit or political organization; the location of the premises for which beer is to be sold or served; the purpose of the request; the individual with such organization responsible for supervising the sale or distribution of beer; and the day(s) and hours during which sale is requested. (Ord. #3-01, June 2001, as amended by Ord. #8-2016, Aug. 2016)

8-703. <u>Application generally</u>. (1) All applications for a permit shall be made on a form prescribed by the board and approved by the city's legal department, and shall be accompanied by all such fees and charges as provided for in chapters 6, 7, and 8 of this title. Additionally, notice shall be placed in a newspaper of general circulation within the city at least ten (10) days prior to the date such application shall be acted upon and shall state the name of the applicant, the kind of classification of permit desired, and the address of the premises at which the permit is desired.

(2) Such application shall be verified by oath and affidavit and shall contain the following:

(a) A statement that the applicant is a person of good character and has sufficient legal interest in a suitable location as would entitle the applicant to conduct the sale of beer at such place of business.

(b) That neither the applicant nor any person employed by the applicant on the premises has been convicted of violating any law against possession, sale, manufacture or transportation of beer or intoxicating liquors, drugs, or narcotics or of a crime involving moral turpitude within the past ten (10) years.

(c) An authorization and release for the city to obtain all relevant information to investigate and determine the applicant's character, qualifications, and suitability for the issuance of a permit hereunder. (d) That the permittee and all managers and employees have read and are familiar, or will read and become familiar with the provisions of chapters 6, 7, and 8 of this title of the code of ordinances upon the issuance of a permit or upon commencement of their employment.

(e) That neither the applicant nor any owner or manager has been convicted of driving under the influence within the past ten (10) years.

(3) The application shall state the name of the owner or all owners of such businesses; and, if a corporation, shall state the name of all stockholders holding at least five percent (5%) or more of the stock.

(4) The application shall disclose the person to be the on-premise manager responsible for the direct daily operations of the business. Such manager shall be subject to the same qualifications as the applicant.

(5) The application shall provide a description of the entire premises, including outside open and parking areas available to and for the use of the business.

(6) If the applicant does not own the property on which the business is located, the applicant shall also submit proof that the property owner does not object to the issuance of a permit.

(7) The application for a permit shall be kept on file by the board and shall be open to inspection in accordance with state law.

(8) While applicants are encouraged to apply for a beer permit in advance of opening or buying the business, the board's approval of a beer permit(s) will be invalid if the business is not open under the applicant's ownership within six (6) months of the board's approval. (Ord. #3-01, June 2001, as amended by Ord. #15-06, Aug. 2006, and Ord. #8-2016, Aug. 2016)

8-704. <u>Fees</u>. All applications for the issuance of a new permit under chapters 6, 7, and 8 of this title, except for a Class E permit, shall be accompanied by a fee of two hundred fifty dollars (\$250.00) for each class of permit sought, which fee shall be non-transferable and non-refundable, notwithstanding whether an application is approved or denied. Applications for Class E permit shall be accompanied by a non-transferable, non-refundable fee of twenty-five dollars (\$25.00), notwithstanding whether an application is approved or denied. A permit, when issued, shall be good until surrendered by the permittee, until the business closes operation, until revoked by the board, or until otherwise specified herein. (Ord. #3-01, June 2001)

8-705. <u>Grounds for denial</u>. No application for a permit for the sale of beer shall be approved where, in the opinion of the board, such sale would cause congestion of traffic or interfere with schools, churches, or other places of public gathering, or where the applicant has once held a permit and it has been revoked less than one (1) year from the time of the applicant's present

application, or where it would otherwise interfere with the public health, safety and morals. (Ord. #3-01, June 2001)

8-706. <u>Issuance</u>. Upon approval of an application by the board, the city manager shall issue a permit as directed; provided, however, no permit shall be issued unless the appropriate city business licenses have been obtained and any fees due thereon paid. (Ord. #3-01, June 2001)

8-707. <u>Posting</u>. A permit issued under chapters 6, 7, and 8 of this title shall be conspicuously posted in the house, building, room or place where the business authorized by the permit is conducted. (Ord. #3-01, June 2001)

8-708. <u>Privilege tax</u>. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer in this state an annual privilege tax of one hundred dollars (\$100.00).

(1) Any person, firm, corporation, joint-stock company, syndicate or association engaged in selling, distributing, storing or manufacturing beer shall remit the tax by January 1 to the city.

(2) The city shall mail written notice to each permittee of the payment date of the annual privilege tax at least thirty (30) days prior to January 1. Notice shall be mailed to the address specified by the permittee on its permit application. If a permittee does not pay the tax by January 31, or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the city shall notify the permittee by certified mail that the tax payment is past due. If a permittee does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then the board may suspend or revoke the permit or impose a civil penalty pursuant to § 8-712.

(3) At the time a new permit is issued to any business subject to this tax, the permittee 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.

(4) The city may utilize these tax funds for any public purpose. (Ord. #3-01, June 2001)

8-709. <u>Training of employees</u>. The permittee is responsible for explaining to and ensuring comprehension of the laws set forth in chapters 6, 7, and 8 of this title to all of their employees that participate in the sale or distribution of beer. (Ord. #3-01, June 2001)

8-710. Expiration when permittee ceases to operate businesses. Any permit issued under chapters 6, 7, and 8 of this title shall become invalid and void at 12:00 midnight of the date on which the permittee ceases to own the business for which such permit was issued. This provision shall not apply to temporary absences of the permittee, but shall apply when such permittee permanently ceases operations under the permit. Such permittee shall, within five (5) days from the date on which he or she ceases to do business under the permit, surrender such permit to the city's legal department. (Ord. #3-01, June 2001)

8-711. <u>Manager certificate</u>. (1) The person(s) responsible for the direct daily operations of a permitted business shall be subject to approval by the board upon application. All applications for a manager certificate shall be made on a form prescribed by the board and approved by the city's legal department. Additionally, notice shall be placed in a newspaper of general circulation within the city at least ten (10) days prior to the date such certification shall be acted upon and shall state the name of the applicant and the name and address of the business.

(2) Such application shall be verified by oath and affidavit and shall contain the following:

(a) A statement that the manager is a person of good character.

(b) That neither the manager nor any person employed by the manager on the premises has been convicted of violating any law against possession, sale, manufacture or transportation of beer or intoxicating liquors, drugs or narcotics or of a crime involving moral turpitude within the past ten (10) years.

(c) An authorization and release for the city to obtain all relevant information to investigate and determine the manager's character, qualifications, and suitability for the issuance of a manager certificate hereunder.

(d) That the manager has read and is familiar, or will read and become familiar with the provisions of chapters 6, 7, and 8 of this title of the code of ordinances upon the issuance of a manager certificate.

(e) That the manager has not been convicted of driving under the influence within the past ten (10) years.

(3) Upon approval of the application for a manager certificate by the board, the city manager shall issue a manager certificate as directed and the certificate shall be conspicuously posted in the house, building, room or place where the business authorized by the permit is conducted.

(4) In the event the person designated on the manager certificate ceases to act in such capacity, or there is a change for any reason, the permittee shall file or cause to be filed a new manager application for the board's consideration within fifteen (15) days of the manager ceasing to act in such capacity. (Ord. #3-01, June 2001, as amended by Ord. #15-06, Aug. 2006)

8-712. Suspension, revocation and civil penalty; actions against permits. (1) Sales to minors. (a) The board is hereby granted the power to revoke or suspend any permit issued pursuant to the provisions of chapters 6, 7, and 8 of this title or to offer the imposition of a civil penalty in lieu of suspension not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any beer sales to minors. The burden of ascertaining age shall be upon the permittee, the on-premises manager, and their employees.

(b) No permit shall be revoked on the grounds the permittee or any person working for the permittee sold beer to a minor over the age of eighteen (18) years if such minor exhibited an identification, false or otherwise, indicating the minor's age to be twenty-one (21) or over, if the minor's appearance as to maturity is such that the minor might reasonably be presumed to be of such age and is unknown to such person making the sale. The permit may be suspended for a period not to exceed ten (10) days or a civil penalty up to two thousand five hundred dollars (\$2,500.00) may be imposed pursuant to subsection (1)(a). However, this shall not be construed in any way to relieve the minor from liability for making such illegal purchase.

(c) Actions against permits for sales to minors that occur at establishments where the permit holder is a responsible vendor under the Tennessee Responsible Vendor Act of 2006^1 are governed by city code, § 8-904

(2) <u>All violations other than sales of beer to minors</u>. The board is hereby granted the power to revoke or suspend any permit issued pursuant to the provisions of chapters 6, 7, and 8 of this title or to offer the imposition of a civil penalty in lieu of suspension not to exceed one thousand dollars (\$1,000.00) for any other violation of the provisions of this chapter, or where:

(a) The business is operated in a disorderly manner. It shall be prima facie evidence that a permittee's establishment is being operated in a disorderly manner if disorderly conduct frequently occurs, if there are frequent breaches of the peace or disturbances on the premises, or if there are frequent instances of public intoxication at the establishment.

(b) (i) The permittee or the on-premises manager has been convicted of a crime of moral turpitude or of violating any law governing the possession, sale, manufacture, or transportation of intoxicating liquor, drugs or narcotics or has been convicted of driving under the influence (DUI). Provided, however, that if the on-premises manager also possesses a valid server permit issued by the Alcoholic Beverage Commission pursuant to <u>Tennessee</u> <u>Code Annotated</u>, §§ 57-3-701, <u>et seq</u>., a DUI conviction will not be grounds for negative action against the permit.

(ii) An employee of a permitted premises has been convicted of a crime of moral turpitude or of violating any law governing the possession, sale, manufacture, or transportation of

¹State law reference

Tennessee Code Annotated, § 57-5-108.

intoxicating liquor, drugs or narcotics and after knowledge of such conviction by the permittee or manager, continues in his or her employment at the permitted premises.

(iii) Drugs or narcotics are used, possessed, sold, or manufactured on the premises for which a permit has been issued and the permittee, manager or employees know or should know such activity is occurring.

(c) The sale or consumption of beverages governed by chapters 6, 7, and 8 of this title occurs on the premises after hours defined in chapters 6, 7 ,and 8 of this title.

(d) Minors are allowed to congregate or loiter on the premises.

(e) Gambling in any form is conducted on the premises.

(f) Persons who are intoxicated are served or permitted to consume beer on the premises.

(g) Failure to maintain or possess the proper health or sanitation permits or upon certification that the premises are so unsafe or unsanitary as to constitute a danger to the public health or safety.

(h) Violation(s) of city housing, zoning, building, electrical, plumbing or fire codes sufficient to constitute a danger to the safety and welfare of patrons and employees of the premises or of the general public.

(i) Failure of the permittee to pay business tax, annual privilege tax or other taxes due to the city.

(j) Gambling devices, as defined by state law, are located on the premises.

(k) The premises are maintained and operated in such manner as to be detrimental to public health, safety or morals.

(l) The permittee fails to submit or cause to be submitted a change of manager application to the city within fifteen (15) days of the previous manager ceasing to act in such capacity.

(m) The permittee fails to pay the state beer barrelage tax imposed by <u>Tennessee Code Annotated</u>, § 57-5-201 or fails to pay the city and county wholesale beer tax imposed by <u>Tennessee Code Annotated</u>, § 57-6-103. The burden of proof shall be on the retail permittee to show that the taxes on beer in the permittee's possession have been paid by showing that the beer was purchased from a Tennessee beer wholesaler, which fact shall be shown by the permittee providing a bill of sale or invoice for the beer which shall include the name and address of the wholesaler, the name and address of the permittee, the number of containers of each brand of beer purchased by the permittee, and which shall be signed by the permittee.

(3) If a civil penalty is imposed as an alternative to suspension, the permittee shall have seven (7) days within which to pay the civil penalty before the suspension shall be imposed. If the civil penalty is paid within seven (7) days, the suspension shall be deemed withdrawn. However, the payment of the

civil penalty shall not affect a permittee's ability to seek review of the civil penalty pursuant to state law.

(4) The board may at any time accept the payment of a civil penalty, not to exceed the amounts set forth in subsections (1)(a) or (2), by a permittee charged with a violation of chapters 6, 7, or 8 of this title, which payment shall be an admission by the permittee of the violation so charged and shall be paid to the exclusion of any other penalty that the city or board may impose.

(5) A permittee shall be responsible for all violations of the provisions chapters 6, 7, and 8 of this title, whether such violations were committed by permittee, the permittee's agents, managers and employees, or other persons on the premises.

(6) No permittee who has had his or her permit revoked by the board may be granted a permit in the city for a period of one (1) year after such revocation.

(7) No permittee shall employ a person who has had a permit or manager certificate issued by the board which has been revoked within the last year if said employment involves the sale or distribution of beer.

(8) Where a permit is revoked, no new permit shall be issued to permit the sale of beer on the same premises until after the expiration of one (1) year from the date the revocation becomes final and effective. The board, in its discretion, may determine that issuance of a permit before the expiration of one (1) year from the date of revocation becomes final is appropriate, if the individual applying for such issuance is not the original holder of the permit or any family member who could inherit from such individual under the statute of intestate succession.

(9) Previous suspensions and other disciplinary actions taken by the board against a permittee may be considered by the board for determination of disciplinary action in any show cause hearing.

(10) In the event of a suspension or revocation, all beer remaining on the premises must be either confined in a locked area, shielded from public view or removed entirely from the premises.

(11) The decision of the board to either suspend or revoke must be posted at the main entrance to the establishment whose permit was suspended or revoked. The decision must remain posted during the entire length of the suspension or revocation.

(12) Should <u>Tennessee Code Annotated</u>, § 57-5-108 (a)(2)(A), as may be amended from time to time by the state legislature, authorize a municipal beer permit board to charge civil penalties in excess of those amounts stated in subsections (1) and (2) above, the civil penalties listed in subsections (1) and (2) shall automatically be raised to the higher amount permitted by state law. (Ord. # 3-01, June 2001, as amended by Ord. #15-06, Aug. 2006, and Ord. #15-07, Aug. 2007)

8-713. <u>Revocation of manager certificates</u>. The board is hereby granted the power to revoke any manager certificate issued pursuant to the provisions chapters 6, 7, and 8 of this title for the following reasons:

(1) Making or permitting to be made any beer sales to minors.

(2) The business is operated in a disorderly manner. It shall be prima facie evidence that an establishment is being operated in a disorderly manner if disorderly conduct frequently occurs, if there are frequent breaches of the peace or disturbances on the premises, or if there are frequent instances of public intoxication at the establishment.

(3) The manager has been convicted of a crime of moral turpitude or of violating any law governing the possession, sale, manufacture, or transportation of intoxicating liquor, drugs or narcotics or has been convicted of driving under the influence (DUI). Provided, however, that if the on-premises manager also possesses a valid server permit issued by the Alcoholic Beverage Commission pursuant to <u>Tennessee Code Annotated</u>, §§ 57-3-701, <u>et seq</u>., a DUI conviction will not be grounds for revocation of the manager certificate.

(4) An employee of a permitted premises has been convicted of a crime of moral turpitude or of violating any law governing the possession, sale, manufacture, or transportation of intoxicating liquor, drugs or narcotics and after knowledge of such conviction by the manager, continues in his or her employment at the permitted premises.

(5) Drugs or narcotics are use, possessed, sold, or manufactured on the permitted premises and the manager or employees know or should know such activity is occurring.

(6) The sale or consumption of beverages governed by chapters 6, 7, and 8 of this title occurs on the premises after hours defined in chapters 6, 7, and 8 of this title.

(7) Minors are allowed to congregate or loiter on the premises.

(8) Gambling in any form is conducted on the premises.

(9) Persons who are intoxicated are served or permitted to consume beer on the premises.

(10) Gambling devices, as defined by state law, are located on the premises.

(11) The premises are maintained and operated in such manner as to be detrimental to public health, safety or morals.

(12) For any other violation of the provisions of chapters 6, 7, and 8 of this title. (Ord. #3-01, June 2001, as amended by Ord. #15-06, Aug. 2006)

CHAPTER 8

BEER AND OTHER LIGHT BEVERAGES - PROHIBITIONS

SECTION

- 8-801. Selling to minors; employing or permitting minors to loiter on premises.
- 8-802. Required documentation for prosecution of sale to minor.
- 8-803. Identification required for off-premises consumption purchases; sign to be posted.
- 8-804. Selling to intoxicated persons.
- 8-805. Drugs on premises.
- 8-806. Curb service prohibited.
- 8-807. Outdoor advertisement.
- 8-808. Sanitary facilities.
- 8-809. Open containers prohibited; exceptions.
- 8-810. Issuance of permits to or employment of persons on premises convicted of certain crimes prohibited.

8-801. <u>Selling to minors; employing or permitting minors to loiter</u> <u>on premises</u>. (1) It shall be unlawful for any permittee, or any person employed by any permittee, to make, permit or allow to be made any sales or distribution of beer to a minor.

(2) No person under the age of eighteen (18) may be employed in the sale or distribution of beer; provided, however, nothing herein shall prohibit the stocking, bagging, or carrying of beer to customers' automobiles by such persons, nor the receipt of money for payment of beer by persons under eighteen (18) years of age where the beer is served or the sale is approved by a person over the age of eighteen (18) who is employed by the permittee.

(3) No permittee or any other person employed by permittee shall allow any minor to loiter about such place of business where beer is sold, and the burden of ascertaining the age of minor customers shall be upon the permittee of such place of business. (Ord. #3-01, June 2001)

8-802. <u>Required documentation for prosecution of sale to minor</u>. No prosecution for the violation of any statute prohibiting the sale of beer for off-premises consumption to a person under twenty-one (21) years of age shall be commenced, if the prosecution is based upon the use of a person under twenty-one (21) years of age, as authorized by <u>Tennessee Code Annotated</u>, § 39-15-413, unless the person or the law enforcement officer supervising the person obtains the name of the permit holder and the employee of the permit holder from whom the beer was purchased or attempted to be purchased. All "stings" shall be conducted in accordance with state law in order to be valid. In addition, within ten (10) days of the date the action occurred, the

law enforcement officer shall notify the permit holder in writing, either by mail or hand delivery, indicating:

(a) That an action recently occurred in which a person under twenty-one (21) years of age was used to purchase or attempt to purchase beer for off-premises consumption;

(b) The date and location of the action;

(c) The name of the permit holder and the employee from whom the beer was purchased or attempted to be purchased; and

(d) Whether the person was successful in making the purchase. (Ord. #3-01, June 2001, as deleted by Ord. #17-06, Sept. 2006, as added by Ord. #15-07, Aug. 2007)

8-803. Identification required for off-premises consumption purchases; sign to be posted. Prior to making a sale of beer for off-premise consumption, the adult consumer must present to the permit holder, or any employee of the permit holder, a valid, government-issued document, such as a driver's license, or other form of identification deemed acceptable to the permit holder, that includes the photograph and birth date of the adult consumer attempting to make a beer purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the permit holder. The permit holder or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of beer for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the permit holder or any employee of the permit holder. Responsible vendors, as that term is defined by city code § 8-901(6), shall post signs on the vendor's premises informing customers of the vendor's policy against selling beer to underage persons. The signs shall be not less than eight and one-half inches by eleven inches (8 1/2" x 11"), and shall contain the following language:

STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER

This section shall sunset on July 1, 2008, unless extended by state law.¹ (Ord. #3-01, June 2001, as deleted by Ord. #17-06, Sept. 2006, as added by Ord. #15-07, Aug. 2007)

8-804. <u>Selling to intoxicated persons</u>. It shall be unlawful for any person to sell or distribute beer to persons who are intoxicated. (Ord. #3-01, June 2001)

¹State law reference

Tennessee Code Annotated, § 57-5-301.

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8-805. <u>Drugs on premises</u>. It is unlawful for any person to bring, to cause or to allow to be brought onto any permitted premises under chapters 6, 7, and 8 of this title any prohibited drugs within the meaning of <u>Tennessee Code</u> <u>Annotated</u>, §§ 53-10-101, <u>et seq</u>., and 39-17-401, <u>et seq</u>. (Ord. #3-01, June 2001, as replaced by Ord. #23-2012, Nov. 2012)

8-806. <u>Curb service prohibited</u>. (4) It shall be unlawful for any person holding a permit under chapters 6, 7, and 8 of this title to sell, distribute, or permit to be sold or distributed beer to any person while such person is occupying any motor vehicle. This section prohibits sales or distribution of beer where the actual transaction occurs at the vehicle and does not prohibit an employee from transporting beer to a person's vehicle when the sale occurred inside the establishment.

(5) This section does not prohibit the sale of beer at or within a golf cart while a golf cart is being operated on a golf course when such golf course is the holder of a valid beer permit under chapters 6, 7, and 8 of this title unless the board has restricted the sale of beer on the course itself under § 8-701(4)(b). (Ord. #3-01, June 2001, as replaced by Ord. #15-06, Aug. 2006)

8-807. <u>Outdoor advertisement</u>. Not more than one (1) sign, advertisement or display, either painted, printed, or of a design and construction utilizing a combination of gaseous matter and electricity for illumination of its lettering, shall be used, erected or maintained outside the building in which the establishment is located to advertise or make reference to the fact that beer is sold on the premises; and no such sign shall be used for such purpose, the area of which is more than nine (9) square feet, and the thickness of which is more than twelve (12) inches. For the purpose of this section, the use of the words "tavern," "bar," or any other words which normally designate a place where beer is sold shall be construed to mean advertising the premises for the sale of beer, and any sign using such words shall come within the prohibition described above. Nothing in this provision shall affect in any way any other provision controlling the erection or maintenance of signs. (Ord. #3-01, June 2001)

8-808. <u>Sanitary facilities</u>. (6) It shall be unlawful for any permittee to fail to keep the premises in a clean and sanitary manner and in good repair both inside and outside. Said premises shall at all times be free from litter, weeds, trash, and other debris. Failure to comply with the requirements of this provision shall be grounds for suspension or revocation of the permit.

(7) All places at which beer is sold for consumption on premises shall be equipped with adequate toilet facilities and hand washing facilities for customers, and shall comply with all applicable state and local health and sanitation requirements.

(8) Where food is sold in connection with the sale of beer, no permit shall be issued until the applicant has complied with applicable state and local

health and sanitation requirements, and possesses the necessary health permits; provided, however, where the health officials allow the continued service or sale of food pending corrective action for violations of the health code, a permit may be issued subject to revocation or suspension if corrective action is not taken within the time periods established by the health officials. The requirements of this subsection shall not be applicable for the sale of packaged goods. (Ord. #3-01, June 2001)

8-809. <u>Open containers prohibited; exceptions</u>. (1) For purposes of this section only, the term "alcoholic beverage" means and includes every liquid, other than patented medicine, capable of being consumed by a human being that contains alcohol including but not limited to beer, wine, spirits, alcohol, liquor and any beverage that has been mixed with alcoholic beverages.

(2) It shall be unlawful for any person to consume an alcoholic beverage or possess an open container containing an alcoholic beverage, within a motor vehicle or otherwise, upon the public roads or streets of the city, except as permitted by the city manager as provided for hereafter. This section shall not apply to the possession of open container(s) of alcoholic beverages within the trunk of a motor vehicle, or within another locked container, or within a compartment of a motor vehicle not readily accessible to persons within the passenger compartment.

(3) There shall be a rebuttable presumption that open containers of alcoholic beverages found in a motor vehicle, not within the physical possession of any individual, are in the possession of the driver of the vehicle.

(4) The city manager is authorized to permit the possession and consumption of alcoholic beverages upon public roads and streets or any other city property upon which the consumption of alcoholic beverages has been prohibited for special occasions. In such instance, the city manager shall file with the city clerk a notice of such roads and streets and the date(s) and time(s) such shall be permitted, and it shall be a defense to a charge under this section that an open container of alcoholic beverage was possessed or the contents consumed upon any such permitted street during the date and time of such permit.

(5) It is unlawful to consume or possess open containers of alcoholic beverages upon any city-owned property where such consumption or possession has been prohibited by city council, and the city clerk shall maintain a current list of all city-owned properties, except roads or streets, upon which the city council has placed such a prohibition. Provided, however, that for special occasions the city manager is authorized to permit the consumption or possession of open containers of alcoholic beverages upon city-owned property where such has been prohibited. For those occasions, the city manager shall file with the city clerk a notice containing a description of the property and the dates(s) and time(s) such consumption or possession shall be permitted thereon. It shall be a defense to a charge under this section that an open container of alcoholic beverage was possessed or the contents consumed upon the described property during the permitted date(s) and time(s). (Ord. #3-01, June 2001)

8-810. <u>Issuance of permits to or employment of persons on</u> <u>premises convicted of certain crimes prohibited</u>. No permit shall be issued to any person, nor shall any person be employed upon the premises, who has been convicted of any violation of state or federal law prohibiting the possession, sale, transportation or manufacture of beer, wine, intoxicating liquor, drugs or narcotics, or of any crime involving moral turpitude within the past ten (10) years. Further, no owner or manager may be convicted of driving under the influence (DUI) within the past ten (10) years. Provided, however, that a manager with a DUI conviction may continue such employment if that person is also the holder of a valid server permit issued by the Alcoholic Beverage Commission. In the event the person's ten (10) year history includes juvenile offenses, only the person's history since the age of eighteen (18) shall be considered. (Ord. #3-01, June 2001, as replaced by Ord. #15-06, Aug. 2006)

CHAPTER 9

RESPONSIBLE VENDOR PROGRAM

SECTION

8-901. Definitions.

- 8-902. Responsible vendor training programs.
- 8-903. Vendor certification.
- 8-904. Suspension, revocation, and civil penalty, actions against permits held by responsible vendors.
- 8-905. Action against clerks for sales to minors.

8-901. <u>Definitions</u>. As used in this chapter, unless the context otherwise requires:¹ (1) "Beer" has the same meaning as defined in § 8-601(1).

(2) "Board" has the same meaning as defined in § 8-601(2).

(3) "Certified clerk" means a clerk who has successfully satisfied the training requirements contained in the Tennessee Responsible Vendor Act of 2006 and who has received certification from a responsible vendor training program.

(4) "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premise consumption.

(5) "Commission" means the State of Tennessee's Alcoholic Beverage Commission.

(6) "Responsible vendor" means a vendor that has received certification from the commission in accordance with the Tennessee Responsible Vendor Act of 2006.

(7) "Responsible vendor training program" means a training program related to the responsible sale of beer for off-premise consumption that has met all the statutory and regulatory requirements set forth in the Tennessee Responsible Vendor Act of 2006, and in commission rules and regulations.

(8) "Vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premise consumption. (as added by Ord. #15-07, Aug. 2007)

8-902. <u>Responsible vendor training programs</u>.² Pursuant to the Tennessee Responsible Vendor Act of 2006, the commission has the authority to approve all responsible vendor training programs and is required to establish

¹State law reference <u>Tennessee Code Annotated</u>, § 57-5-603

²State law reference <u>Tennessee Code Annotated</u>, § 57-5-604 requirements and guidelines for responsible vendor training programs and vendor and clerk certifications. It is the commission's responsibility to establish and keep a master list of certified clerks and clerks not eligible for certification. (as added by Ord. #15-07, Aug. 2007)

8-903. <u>Vendor certification</u>.¹ A vendor who seeks certification as a responsible vendor must comply with the Tennessee Responsible Vendor Act of 2006 and the procedures, rules and regulations adopted by the commission. Determination of compliance with the responsible vendor program is the sole province of the commission. (as added by Ord. #15-07, Aug. 2007)

8-904. <u>Suspension, revocation, and civil penalty; actions against</u> <u>permits held by responsible vendors</u>.² (1) The board may not revoke or suspend the permit of a responsible vendor for a clerk's illegal sale of beer to a minor if the clerk making the illegal sale is a certified clerk and has attended annual meetings since the original certification, or is within sixty-one (61) days of the date of hire at the time of the violation. In such event, the board may impose on the 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. In event a responsible vendor has at least two (2) violations within a twelve-month period, the board may issue a permanent revocation of the permit.

(2) If the commission revokes a vendor's certification pursuant to <u>Tennessee Code Annotated</u>, § 57-5-608(b), the board may take action against the permit as if the vendor were not certified as a responsible vendor. (as added by Ord. #15-07, Aug. 2007)

8-905. <u>Action against clerks for sales to minors</u>.³ If the board determines that a sale to a minor occurred by an off-premise beer permit holder, then the certification of the clerk making the sale 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. The board shall report the name(s) of such clerk(s) to the commission within fifteen (15) days of finding that a sale to a minor occurred. The commission then notifies the responsible vendor of their

¹State law reference <u>Tennessee Code Annotated</u>, § 57-5-605

²State law reference <u>Tennessee Code Annotated</u>, § 57-5-108 and § 57-5-608

³State law reference <u>Tennessee Code Annotated</u>, § 57-5-607 Change 2, August 20, 2007

certified clerks who have lost their certification within fifteen (15) days of notification by the board. (as added by Ord. #15-07, Aug. 2007)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

- 1. PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS.
- 2. TAXICABS--IN GENERAL.
- 3. TAXICABS--PERMITS.
- 4. TAXICABS--DRIVER'S LICENSE.
- 5. RODEOS, CIRCUSES AND OTHER ITINERANT SHOWS.
- 6. SWIMMING POOLS.
- 7. ADULT ENTERTAINMENT ESTABLISHMENTS.
- 8. ADULT ENTERTAINMENT--RELATED ESTABLISHMENTS.

CHAPTER 1

PEDDLERS, SOLICITORS AND ITINERANT MERCHANTS¹

SECTION

- 9-101. Definitions.
- 9-102. Permit required.
- 9-103. Application for permit (except non-profit organizations).
- 9-104. Application for non-profit permit.
- 9-105. Fees.
- 9-106. Investigation of applicant; issuance or denial of permit.
- 9-107. Bond.
- 9-108. Proper conduct during solicitation.
- 9-109. Expiration and renewal of permits.
- 9-110. Revocation or suspension of permit.
- 9-111. Appeal.
- 9-112. Exemptions.
- 9-113. Violations.

9-101. <u>Definitions</u>. Whenever used in this chapter, unless the context requires otherwise, the following definitions shall apply:

(1) "City manager" means the city manager of this city or the city manager's duly authorized designee.

(2) "Merchandise" means and includes all personal property of whatever kind, whether tangible or intangible, including but not limited to, goods, wares, produce, insurance, stocks and bonds.

¹Charter reference

Privilege taxes: title 5, chapter 2.

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(3) "Non-profit organization" means and includes any non-profit organization as defined by and qualified under the rules and regulations of the Internal Revenue Service.

(4) "Permittee" means the person holding a valid permit issued under this chapter.

(5) "Solicit" means and includes offering merchandise for sale, barter or exchange, whether for present or future delivery, or in any manner disposing of personal property by peddling or hawking the same.

(6) "Solicitor" means and includes peddler, huckster or itinerant merchant and all persons of any age who solicit, attempt to solicit, sell, barter, exchange or offer to sell, barter or exchange, and includes person soliciting on behalf of a nonprofit organization. (1969 Code, § 18-1, as replaced by Ord. #22-2012, Oct. 2012)

9-102. <u>Permit required</u>. It shall be unlawful for any person to solicit the sale of merchandise or the furnishing of a service within the city without first obtaining a permit therefor in compliance with the provisions of this chapter. Furthermore, no person shall solicit contributions or the sale of merchandise for a nonprofit organization unless the organization first obtains a permit therefor in compliance with this chapter. (1969 Code, § 18-2, as replaced by Ord. #22-2012, Oct. 2012)

9-103. Application for permit (except non-profit organizations).

(1) Applicants for a permit under this chapter must file with the utility business office a sworn written application, on a form provided by the city, which shall at a minimum contain the following:

(a) Name and physical description of the applicant. In the case of a non-profit organization, a list of all proposed solicitors, if such a list is available.

(b) 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.

(c) Personal identity information as may be required to conduct a thorough background check on the individual.

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

(e) If applicant is employed, the name, address and telephone number of the employer, together with credentials therefrom establishing the exact relationship and authority of the employee to act for the employer. If the person is acting as an agent, the name, address, and telephone number of the principal being represented shall be provided along with credentials establishing the relationship and the authority of the agent to act for the principal. (f) The length of time for which the right to do business is desired.

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

(h) A statement as to whether or not the applicant has been convicted of any felony, misdemeanor or ordinance violation other than traffic violations; the nature of the offense or violation; and the punishment or penalty assessed therefor, the date and location where such offense or violation occurred and other pertinent details thereof.

(i) Proof of possession of any permit or license which, under federal, state or local laws or regulations, the applicant is required to have in order to conduct the proposed business, or which, under any such law or regulation, would exempt the applicant from the permitting requirements of this chapter.

(j) 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.

(k) The applicant's consent for the city to conduct a background investigation, including a review of the applicant's criminal and civil records.

(2) At the time of application, the applicant must cooperate in the recording of a digital photograph which will be placed on file and be used in the printing of the solicitor's permit, should such permit be approved.

(3) Failure to provide all requested information, providing false information, or failure to authorize a background investigation will result in the denial of the application. (1969 Code, § 18-3, as replaced by Ord. #22-2012, Oct. 2012)

9-104. <u>Application for non-profit permit</u>. (1) Applicants for a permit under this chapter for non-profit purposes must file with the utility business office a sworn written application, on a form provided by the city, which shall at a minimum contain the following:

(a) Name of the non-profit organization represented, its principal address or place of business, tax exempt certification number and the nature of the beneficiaries of its efforts.

(b) The name, contact information and complete permanent home address and local address of a local representative of the organization who will be responsible for all canvassers; in the case of such not being local, the local address from which solicitations will be made, along with such personal identity information as may be required to conduct a thorough background check on that individual.

(c) A brief description of the nature of the solicitation.

(d) The length of time for which the permit is desired.

(e) The names, addresses and contact information of all canvassers to be involved in the effort and a statement by the local representative that all canvassers are personally known to be of good moral character and not to have been convicted of any felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, theft, or any violent act against persons or property, or fraud, deceit or misrepresentation, or moral turpitude within the last ten (10) years.

(f) The applicant's consent for the city to conduct a background investigation, including a review of the applicant's criminal and civil records.

(2) Failure to provide all requested information, providing false information, or failure to authorize a background investigation will result in the denial of the application. (1969 Code, § 18-4, as replaced by Ord. #22-2012, Oct. 2012)

9-105. <u>Fees</u>. At the time of application, the applicant shall pay a nonrefundable fee to cover the cost of processing the application and investigating the facts stated therein. The permit fee shall be established by resolution of city council. (1969 Code, § 18-5, as replaced by Ord. #22-2012, Oct. 2012)

9-106. Investigation of applicant; issuance or denial of permit.

(1) Upon receipt of the application and payment of the fee, the utility business office shall cause an investigation to be made of the applicant's moral reputation or business responsibility and conduct a background investigation of the applicant. If the applicant's application is complete and the investigation is satisfactory, a permit shall be issued to the applicant. The permit shall be prepared by the city and shall include a current photo of the permittee. A list of all permits issued shall be kept for two (2) years from the date of issue.

(2) The city may deny the application for any of the following reasons:

(a) The location and time of solicitation or peddling would endanger the safety and welfare of the solicitors, peddlers or their customers;

(b) An investigation reveals the applicant falsified information on the application;

(c) The applicant has been convicted of a felony, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, theft, or any violent act against persons or property within the last ten (10) years; (d) The applicant is a person against whom a judgment based upon, or conviction for, fraud, deceit or misrepresentation has been entered within the last ten (10) years;

(e) The applicant has been convicted of a crime of moral turpitude within the last ten (10) years;

(f) There is no proof of authority for the applicant to serve as an agent of the principal; or

(g) The applicant has been denied a permit under this chapter within the last year, unless the applicant can and does show to the satisfaction of the city that the reasons for such earlier denial no longer exist.

(3) The reason(s) for denial of a permit shall be noted on the application and the applicant shall be notified that his or her application has been denied and that no permit will be issued. The notice shall also inform the applicant of the appeal process. Notice shall be mailed to the applicant's address as listed on the application. (1969 Code, § 18-16, as replaced by Ord. #22-2012, Oct. 2012)

9-107. <u>Bond</u>. All solicitors requiring cash deposits shall furnish to the city a bond in the amount of ten (10) times the solicitor's highest deposit amount and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with the permittee that the merchandise purchased will be delivered according to the representations of the permittee. Action on the bond may be brought by any person aggrieved and for whose benefit the bond is given, but the surety may by paying the face amount of the bond pursuant to court order to the clerk of court in which the suit is commenced be relieved without costs of all further liability. (1969 Code, § 18-17, as replaced by Ord. #22-2012, Oct. 2012)

9-108. Proper conduct during solicitation. (1) Hours of solicitation. Solicitation is allowed between the hours of 9:00 A.M. and 9:00 P.M. from April through October and between the ours of 9:00 A.M. and 7:30 P.M. from November through March, it being the intent that door-to-door solicitation occur during daylight hours for safety and visibility of the solicitors and at times when citizens feel secure in their homes to receive unexpected visitors. Solicitation outside of these hours is a violation of this chapter.

(2) <u>Not transferrable</u>. It is a violation of this chapter a permit issued under this chapter to be used at any time by any person or organization other than the one to whom it is issued.

(3) <u>Display of permit</u>. Every person issued a permit under this chapter shall clearly display said permit on his or her person at all times while solicitation is in process and allow inspection of said permit by the occupant of the private premises upon which the person is soliciting. Further, every person issued a permit under this chapter shall produce the same at the request of any police officer or city employee. Failure to adhere to these requirements is a violation of this chapter.

(4) <u>No solicitation signs</u>. It is a violation of this chapter and deemed to be trespass for any person, whether permitted or not, while conducting the business of a peddler or solicitor to fail to comply with posted signs such as "no solicitors," "no peddlers," "no solicitation," and signs of similar meaning when posted on private property unless such person is or has been invited upon the premises by the occupant thereof.

(5) <u>Trespass</u>. It is a violation of this chapter and deemed to be trespass for any permittee acting under this chapter to fail to promptly leave the private premises of any person who requests, asks or directs the permittee to leave.

(6) <u>Aggressive manner</u>. It is a violation of this chapter for permittees to act in any manner which could be reasonably considered aggressive, coercive, threatening, harassing or abusive, such as using obscene or profane language, intimidation, or unwelcome physical contact.

(7) <u>False or misleading</u>. It is a violation of this chapter for permittees to knowingly make a false or misleading statement or representation in the course of soliciting. This includes, but is not limited to, stating that a donation is needed to meet a specific need when there are already sufficient funds to meet that need or stating that a donation is needed to meet a need that does not exist.

(8) <u>Shouting, using horns, bells, etc</u>. No person holding a permit under this chapter, or any person on his or her behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell.

(9) <u>Use of streets</u>. No person holding a permit under this chapter shall have any exclusive right to any location near the public streets or be permitted a stationary location thereon, nor shall any such person be permitted to operate in a congested area where such operation might impede or inconvenience the public use of streets, nor shall any such person be permitted to accept orders for goods or sell directly from a vehicle of any kind while standing in a public street. For the purpose of this section the judgment of the city manager, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1969 Code, § 18-18, as replaced by Ord. #22-2012, Oct. 2012)

9-109. <u>Expiration and renewal of permit</u>. 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.

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Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year, except permits issued to non-profit organizations, which shall be issued for two (2) years. 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. (1969 Code, § 18-19, as replaced by Ord. #22-2012, Oct. 2012)

9-110. <u>**Revocation or suspension of permit**</u>. (1) Permits issued under the provisions of this chapter may be revoked by the city manager, after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application (that was not revealed during the initial investigation), or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.

(b) 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.

(c) Conviction of any crime, misdemeanor or ordinance violation involving a sex offense, trafficking in controlled substances, fraud, theft, deceit, misrepresentation or any violent act against persons or property within the last ten (10) years that was not revealed during the initial investigation or that occurred after the date of application;

(d) Conviction of any crime involving moral turpitude within the last ten (10) years that was not revealed during the initial investigation or that occurred after the date of application; or

(e) Any violation of this chapter.

(2) Notice of the hearing for revocation of a permit under this section shall be given by the city manager 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 the address listed on the application 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 city manager may suspend a permit issued under this chapter pending the revocation hearing.

(4) No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the date of revocation. (1969 Code, § 18-20, as replaced by Ord. #22-2012, Oct. 2012)

9-111. <u>Appeal</u>. (1) Any person aggrieved by the action or decision to deny, suspend or revoke a permit applied for under the provisions of this chapter

shall have the right to appeal such action or decision to the city manager within fifteen (15) days after the notice of the action or decision has been mailed to the person's address as shown on the permit application.

(2) An appeal shall be taken by filing with the city manager a written statement setting forth the grounds for the appeal.

(3) A hearing shall be set not later than twenty (20) days from the date of receipt of the appellant's written statement.

(4) Notice of the time and place of the hearing shall be given to the appellant in the same manner as provided for the mailing of notice of action or decision.

(5) The decision of the city manager on the appeal shall be final and binding on all parties concerned. (1969 Code, § 18-21, as replaced by Ord. #22-2012, Oct. 2012)

9-112. <u>Exemptions</u>. The provisions of this chapter shall not be applicable to persons selling at wholesale to dealers, newsboys, bona fide merchants who merely deliver goods in the regular course of business, sellers responding to a prior invitation by the owner or occupant of a residence, or to bona fide candidates, campaign workers and political committees campaigning on behalf of candidates or on ballot issues and persons soliciting signatures of registered voters on petitions to be submitted to any governmental agency. The provisions of this chapter are also not applicable to students enrolled in grades K through 12 while engaged in fundraising activities, or any persons under the age of eighteen (18) except when they are agents of a for-profit organization.

Any other person or organization claiming to be legally exempt from the regulations set forth in this chapter, or from the payment of a fee, shall cite to the utility business office the statute or other legal authority under which exemption is claimed and shall present proof of qualification for such an exemption. (1969 Code, § 18-22, as replaced by Ord. #22-2012, Oct. 2012)

9-113. <u>Violations</u>. Any person violating the provisions of this chapter shall, upon conviction, pay a fine not to exceed fifty dollars (\$50.00) for each offense. Every day such violation continues shall constitute a separate offense. (1969 Code, § 18-23, as replaced by Ord. #22-2012, Oct. 2012)

CHAPTER 2

TAXICABS¹--IN GENERAL

SECTION

- 9-201. Definitions.
- 9-202. General powers and duties of city manager.
- 9-203. Evidence of title to be filed with city clerk.
- 9-204. Monthly reports and fees required of operators.
- 9-205. Maintenance, signage and inspection.
- 9-206. Taximeters.
- 9-207. Rates.
- 9-208. Unlawful to fail to pay fare.
- 9-209. Taxicab stands.
- 9-210. Indiscriminate solicitation of passengers prohibited.
- 9-211. Solicitation of utility passengers prohibited.
- 9-212. Accident reports.

9-201. <u>Definitions</u>. (1) "ASE-certified mechanic." ASE-certified mechanic means a mechanic certified by the National Institute for Automotive Service Excellence or similar nationally recognized mechanical certification.

(2) "City manager." City manager means the city manager or the city manager's duly authorized designee.

(3) "Taxicab." Taxicab means any motor vehicle used for the purpose of transporting persons within the city for hire and not operating upon an established route or between fixed termini. Taxicab does not include vehicles engaged exclusively in sight-seeing operations or used for weddings, funerals, or similar operations. Further, taxicab does not include vehicles operated or controlled by transportation network companies as that termed in defined in <u>Tennessee Code Annotated</u>, § 55-12-141. (1969 Code, § 23-1, as replaced by Ord. #1-2017, Jan. 2017)

9-202. <u>General powers and duties of city manager</u>. The city manager shall have exclusive jurisdiction of the licensing and regulations of taxicabs within the city and shall administer the provisions of chapters 2, 3, and 4 of this title and in accordance therewith shall be authorized to promulgate rules and regulations for the operation of taxicabs in Oak Ridge. (1969 Code, § 23-2)

¹Municipal code reference

Privilege taxes: title 5, chapter 2.

9-203. Evidence of title to be filed with city clerk. A certificate of title for each taxicab for which a permit is issued under chapters 2, 3, and 4 of this title, or lawful evidence thereof, shall be filed with the city clerk. (1969 Code, § 23-3)

9-204. <u>Monthly reports and fees required of operators</u>. Each person holding a taxicab permit under the provisions of chapters 2, 3, and 4 of this title shall file a monthly report, on a form provided by the city, which shall show the number of taxicabs operated during the preceding month, the number in operation, the number out of service for repairs or otherwise. With such report, such person shall pay the sum of five dollars (\$5.00) for each taxicab in operation, which payments shall be made monthly. All funds derived from such payments may be used for the purpose of enforcing the provisions of chapters 2, 3, and 4 of this title. Payments shall be made to the city with the monthly report, as provided herein, and such funds shall be deposited in the city treasury. (1969 Code, § 23-4)

9-205. <u>Maintenance, signage and inspection</u>. (1) <u>Maintenance</u>. All taxicabs operated within the city shall be safely conditioned for the transportation of passengers and shall be kept in a clean and sanitary condition in interior and exterior. All taxicabs shall be receive annual maintenance by an ASE-certified mechanic. Documentation of this annual evaluation shall be submitted to the city manager and kept on file in the city clerk's office. It shall be unlawful for any person to operate a taxicab in the city limits unless such taxicab is equipped in accordance with the requirements of the state motor vehicle law.

(2) <u>Signage</u>. All taxicabs shall have conspicuously posted inside the cab a sign reading as follows:

City ordinance requires that the interior and exterior of this cab be kept clean. If you think the cleanliness of this cab needs improvement, please mention this to the cab driver or call the police department (865-425-4399) and give the number of the cab.

(3) <u>Inspection</u>. The city manager shall cause to be made periodic inspection of such vehicles to determine their fitness for public use. It shall be grounds for the revocation of any taxicab permit for the holder thereof to fail to comply with this section. (1969 Code, § 23-5, as replaced by Ord. #1-2017, Jan. 2017)

9-206. <u>Taximeters</u>. No person shall operate any taxicab in the city, nor shall a permit for a taxicab be issued under chapters 2, 3, and 4 of this title, unless the taxicab is equipped with a standard taximeter, in good and workable condition, and designed to mechanically and accurately measure distance traveled, record the time the vehicle is waiting, and upon which there shall be indicated, by figures, the fare charged. All taximeters shall be so placed that the

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face thereof, where the fare is registered, will be plainly visible to passengers within the vehicle. After sundown, the face of every taximeter shall be illuminated by a suitable light and so arranged as to reflect the fare indicated thereon. (1969 Code, § 23-6)

9-207. <u>Rates</u>. No operator of any taxicab shall charge rates in excess of the amounts set by resolution of city council. (1969 Code, § 23-7, as amended by Ord. #4-00, Feb. 2000, and replaced by Ord. #10-05, Oct. 2005)

9-208. <u>Unlawful to fail to pay fare</u>. It shall be unlawful for any person to refuse to pay the legal fare charged by the operator of any taxicab in accordance with the provisions of chapters 2, 3, and 4 of this title, and any person who shall fail or refuse to pay such fare shall be guilty of a misdemeanor. (1969 Code, § 23-7.1)

9-209. <u>Taxicab stands</u>. The city manager shall, upon issuing a permit under chapters 2, 3, and 4 of this title, approve or designate, at his or her discretion, the taxicab stands at which taxicabs covered by the permit shall be required to stand while awaiting patronage, as well as call boxes appertaining thereto. The city manger is hereby authorized to limit the number of stands and to so regulate their location as to not unreasonably interfere with the right of adjacent landowners or tenants to ingress or egress. The space so allotted to any permittee shall not be used or trespassed upon by any other operator of taxicabs within the city. (1969 Code, § 23-8)

9-210. Indiscriminate solicitation of passengers prohibited. No operator of a taxicab shall indiscriminately solicit passengers upon the streets or other public ways of the city. (1969 Code, § 23-9)

9-211. <u>Solicitation of utility passengers prohibited</u>. No operator of any taxicab shall, in any manner whatever, directly or indirectly, solicit the patronage of those who have assembled for the purpose of becoming passengers upon any public utility authorized to transport passengers in the city. (1969 Code, § 23-10)

9-212. <u>Accident reports</u>. All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person, result in damage to any vehicle, or result in damage to any property in an amount exceeding four hundred dollars (\$400.00) shall be reported within seventy-two (72) hours from the time of the occurrence to the city manager on a form to be furnished by the city manager. Any taxicab damaged in an accident may not be returned to service until a safety inspection has been completed by an ASE-certified mechanic and has been approved for safe operation by said mechanic, with documentation of such delivered to the city manager. A taxicab

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damaged in an accident, but still operable per the safety inspection without placing the driver or passengers at risk, must be repaired within two (2) weeks of the accident or removed from operation until repaired.

A taxicab driver operating a taxicab at the time of an accident involving bodily injury or death is required to report for a drug screen within twenty-four (24) hours from the time of occurrence at a testing site designated by the city manager. Failure to report for such a screen may result in revocation of the taxicab driver's license. (1969 Code, § 23-11, as replaced by Ord. #1-2017, Jan. 2017)

CHAPTER 3

TAXICABS--PERMITS

SECTION

- 9-301. Permit required.
- 9-302. Application.
- 9-303. Hearing prerequisite to issuance.
- 9-304. Insurance required of applicant.
- 9-305. Issuance; determination of convenience and necessity.
- 9-306. Form.
- 9-307. Increasing number of taxicabs after issuance.
- 9-308. Transfer or assignment.
- 9-309. Revocation.

9-301. <u>Permit required</u>. No person shall operate or cause to be operated any taxicab in the city without having first applied for and received a permit therefor from the city manager. (1969 Code, § 23-22)

9-302. <u>Application</u>. An application for a permit under this chapter shall be made with the city manager, on forms prescribed by him or her, shall be in writing, verified by affidavit of the applicant or his or her duly authorized agent, and shall contain the following information:

(1) Full name and address of the applicant and the applicant's company; if a partnership, the name of each partner, and if a corporation, the names and addresses of the executive officers thereof.

(2) Previous experience of the applicant in the taxicab business.

(3) The number of taxicabs desired to be operated.

(4) The seating capacity and make of each automobile to be used as a taxicab.

(5) The state license number of each vehicle.

(6) The model of each vehicle, by year, and the time it has been used as a taxicab.

(7) The rate of fare proposed to be charged.

(8) The name, address and telephone number of two (2) character references.

(9) A description of the color scheme on the taxicabs. (1969 Code, \S 23-28)

9-303. <u>Hearing prerequisite to issuance</u>. A permit shall be granted under this chapter only after a public hearing by the city manager after ten (10) days' notice by publication in the official newspaper within the city. (1969 Code, § 23-24)

9-304. Insurance required of applicant. No permit shall be granted for the operation of taxicabs until the owner thereof shall have first filed with the city manager for each and every vehicle so employed, a certificate of public liability insurance, with memorandum copies of policies, with some public liability insurance company authorized to do business in the State of Tennessee, and approved by the city manager and city attorney. Policies covered by the certificates shall be issued to the person owning the taxicab, and shall provide bodily injury, the limits of which shall be in such amounts for single injury, injury to more than one (1) person in any one (1) accident, and property damage as is required by the Tennessee Financial Responsibility Law for motor vehicles. (1969 Code, § 23-25)

9-305. <u>Issuance: determination of convenience and necessity</u>. Except as otherwise provided in chapters 2, 3, and 4 of this title, the city manager may issue any taxicab permit which the public welfare, convenience and necessity may require. In making such determination, the city manager shall consider whether the demands of the public require such proposed or additional taxicab service, which consideration shall involve traffic increase factors and the need for increased parking space upon the streets of the city, and the city manager may consider whether the safe use of the streets by the public, both vehicular and pedestrian, will be preserved by the granting of such proposed or additional permit. (1969 Code, § 23-26)</u>

9-306. Form. The permit required by this chapter, when issued, shall be in the form of a certificate of convenience and necessity. (1969 Code, § 23-27)

9-307. <u>Increasing number of taxicabs after issuance</u>. No person granted a permit under this chapter shall increase the number of taxicabs allowed or enlarge upon the authority granted him or her by the permit. Every increase in the number of taxicabs operated shall be contingent upon the approval of the city manager in the same manner and to the same extent as is provided in this chapter for the original issuance of permits. (1969 Code, § 23-28)

9-308. <u>**Transfer or assignment**</u>. No permit granted under this chapter shall be assigned, transferred or conveyed to any other person; provided, that the city manager may, after a hearing, when the facts and circumstances justify it, permit a transfer of the original certificates where the city manager finds that the public convenience and necessity will be better served by such transfer. (1969 Code, § 23-29)

9-309. <u>**Revocation**</u>. The city manager shall have full authority to revoke a permit issued under this chapter, after notice and public hearing in accord with rules and regulations promulgated pursuant to § 1-105 of this code, where

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the provisions of this chapter are violated by the holder of the permit. Such revocation shall be in addition to any penalty imposed for such violation. (1969 Code, § 23-30)

CHAPTER 4

TAXICABS--DRIVER'S LICENSE

SECTION

9-401. Required.

9-402. Application.

9-403. Qualifications of applicant.

9-404. Fee.

9-405. Issuance; form; contents.

9-406. Display.

9-407. Not transferrable.

9-408. Expiration and renewal.

9-409. Suspension or revocation.

9-401. <u>Required</u>. It shall be unlawful for any person to drive a taxicab within the city unless he or she has a current license so to do issued in accord with this chapter. (1969 Code, § 23-41)

9-402. <u>Application</u>. Application for a taxicab driver's license shall be on a form provided by the city manager. Such application shall give the applicant's full name; present address; place of residence for three (3) years next preceding; age; height; color of eyes and hair; places of previous employment; whether he or she has ever been convicted of a felony or misdemeanor; Tennessee driver's license number with the appropriate state-required endorsement for drivers of vehicles for hire; whether previously licensed as a driver or chauffeur, and if so, whether his or her license has ever been suspended or revoked. Such application shall be signed and sworn to by the applicant, submitted to the city manager, and then kept by the city clerk as part of the applicant's file. The application provided for herein shall have attached thereto, on a form provided by the city manager, affidavits of the applicant's good character from two (2) reputable persons who have known him or her personally during the three (3) years next preceding the date of the application. (1969 Code, § 23-42, as replaced by Ord. #1-2017, Jan. 2017)

9-403. Qualifications of applicant. Each applicant for a taxicab driver's license shall:

(1) Be of the age of eighteen (18) years or more.

(2) Be of sound physique, with good eyesight, and not subject to any ailment of mind or body which might render him or her unfit for the safe operation of a taxicab.

(3) Be able to read and write the English language.

(4) Be clean in dress and person and not addicted to the use of drugs or intoxicating liquors.

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(5) Be of good moral character as evidenced by the affidavits referred to in § 9-402.

(6) Not have been convicted within the five (5) years preceding the date of the application of any felony, or any offense involving shoplifting, theft, larceny, driving under the influence of alcohol or drugs, possession, sale or use of marijuana or controlled substances, reckless driving or an offense of a similar nature, violation of §§ 11-501, 11-701, 11-702, or 11-704 of the Code of Ordinances, City of Oak Ridge, Tennessee. (1969 Code, § 23-43)

9-404. Fee. The fee for a taxicab driver's license shall be four dollars (\$4.00). (1969 Code, § 23-44)

9-405. <u>Issuance; form; contents</u>. Upon compliance with the provisions of this chapter and payment of the prescribed fee, the city manager shall issue to the applicant a taxicab driver's license, which shall be in the form of an identification card, bearing the photograph of the person to whom issued. (1969 Code, § 23-45)

9-406. <u>Display</u>. At all times while a licensed taxicab driver is engaged in driving or operating any taxicab within the city limits, the license issued under this chapter shall be displayed in a conspicuous place in the taxicab. (1969 Code, § 23-46)

9-407. <u>Not transferrable</u>. A license issued under this chapter shall not be transferrable and shall not be used by other than the person to whom issued. (1969 Code, § 23-47)

9-408. <u>Expiration and renewal</u>. The license of any taxicab driver issued under this chapter shall expire one (1) year from the date issued, and shall be renewed for the ensuing year on or before such date upon payment of a fee of two dollars (\$2.00). (1969 Code, § 23-48)

9-409. <u>Suspension or revocation</u>. Upon the conviction of any licensed taxicab driver for the violation of a city, state, or federal law involving the use, sale, or distribution of alcoholic beverages, or of any felony, or of any offense involving shoplifting, larceny, or theft, or of driving under the influence of alcohol or drugs, or of possession, sale, or use of marijuana or a controlled substance, or of reckless driving or offense of a similar nature, or upon a conviction of a violation of §§ 11-701, 11-702, 11-501, or 11-704 of the Code of Ordinances, City of Oak Ridge, Tennessee, or upon conviction of three (3) traffic violations other than those hereinabove included provided those hereinabove included traffic offenses may be included as one or more of the three (3) violations, within a one-year period, the city manager may suspend or revoke the license of such driver. In the case of a suspension, it shall be for not less

than ten (10) days nor more than thirty (30) days, the period to be fixed by the city manager. In cases of suspension, the city manager shall take up from the licensee his or her license identification card, and shall return the same at the expiration of the period of suspension. In case of revocation, such identification card shall be returned to the city manager. It shall be unlawful for any driver to refuse to surrender his or her identification card to the city manager in cases of suspension, or demand therefor, or to drive or operate any taxicab during such period of suspension or revocation. (1969 Code, § 23-49)

CHAPTER 5

RODEOS, CIRCUSES AND OTHER ITINERANT SHOWS¹

SECTION

9-501. Permit required; application for permit.

- 9-502. General conditions to issuance of permit.
- 9-503. Permit fees.
- 9-504. Occupancy of structure prohibited prior to issuance of permit.
- 9-505. Liability insurance and cash bond.
- 9-506. Inspection of premises.
- 9-507. Revocation of permit.

9-501. <u>Permit required; application for permit</u>. No person shall conduct, erect, or cause to be conducted or erected any rodeo, wild west show, menagerie, circus, carnival, or similar type of itinerant show within the city without a permit so to do issued by the city manager. Application for such permit shall be in writing and filed with the city manager at least fourteen (14) days prior to the opening date of any performance. The application shall state clearly the following:

(1) Whether any open flame is intended to be used within the structure, and if so, what precautions are to be taken to render it safe.

(2) The name of the person, firm, or corporation which will use the structure.

(3) The location of the principal place of business of such person, firm, or corporation.

(4) The names and addresses of the officers of such firm or corporation.

(5) The length of time the structure is intended to be used for the purpose applied for.

(6) The hours of the day or night during which such structure is intended to be used as a place of assembly.

(7) The formula of the solution which is to be used to flameproof the structure, or a copy of a certificate showing the date of the last flameproof treatment and by whom performed.

(8) What provisions have been made for sanitary facilities for persons using the premises on which such structure is to be erected or is maintained.

(9) The name or names of the sponsoring local person or group.

(10) That only safety film motion pictures will be used, where motion pictures are to be shown.

¹Municipal code reference

Privilege taxes: title 5, chapter 2.

(11) That the proposed operation is in compliance with the zoning ordinance, as amended.

(12) Such other relevant information as the city manager may require.

Such application shall include the names of the owners, their addresses, and the name or names of the manager or managerial personnel of the operation. (1969 Code, § 5-11)

9-502. <u>General conditions to issuance of permit</u>. The city manager shall not issue a permit required by this chapter, unless the applicant has made provision for:

(1) Adequate aisles, seats, platforms, and poles.

(2) Sufficient exits, well marked and properly lighted.

(3) Lighted and unobstructed passageways to areas leading away from the structure, so that fire-fighting equipment and personnel may operate easily.

(4) Removal, before the structure is to be used as a place of public assembly, of any pole, rope or other obstruction in any aisle or exit.

(5) Inspection before the opening of the show by the city electrical inspector to ascertain if any defects exist in the wiring and provision made for immediate correction of any defects which may be found.

(6) Sufficient first-aid fire appliances to be distributed throughout the structure with operating personnel familiar with the operation of such equipment available and assigned during the use of such structure as a place of assembly.

(7) Sufficient "NO SMOKING" signs visible at all times.

(8) An employee at each entrance to require the extinguishing of all cigarettes, cigars and other smoking materials.

(9) Announcement at frequent intervals to the persons in the assembly of the fact that smoking within the structure is prohibited.

(10) Proper safeguarding of any open flame or its use prohibited.

(11) The prohibition of fireworks.

(12) The clearing of straw, dry grass, sawdust and any combustible trash from the structure before it is opened to the public and arrangements made to keep the areas where debris may be expected to accumulate well serviced, especially under open seats.

(13) Proper facilities for calling the city fire department.

(14) Adequate police and fire personnel and equipment, at the applicant's expense, for the control of persons in the assembly to prevent overcrowding, obstruction of aisles and exits and such other control as may be necessary to render the occupation of such structure or its use by the public safe.

(15) Rendering nonflammable the tent and canvas parts of the structure and all combustible decorative materials, including curtains, acoustic materials, streamers, cloth, cotton batting, straw, vines, leaves, trees, and moss. (1969 Code, § 5-12) **9-503.** <u>Permit fees</u>. (1) The following fees are to be paid to the city for permits required by this chapter, in addition to any other fee, tax, or payment required by any other provisions of this code or state statutes:

luired by any of	ther provisions of this code or state statutes:
(a)	Rodeo and wild west show, per day \$150.00
(b)	Menageries, per day 75.00
(c)	Circuses and menagerie parades within the city, when circus
or menager	ie is located outside city, per day 100.00
(d)	Buildings for entertainment, amusement or exhibitions of
any kind or nature not enumerated above:	
	Per day
	Per week 6.00
	Per month
	Per six months
(e)	Motor carnival, per day (first day) 100.00
	Per day (after first day) 75.00
	ConcessionsLess than 20' x 20' per day 3.00
	Concessions20' x 20' or more, per day 5.00
(f)	Circus, per day (first day) 100.00
	Per day (after first day) 75.00
	ConcessionsLess than 20' x 20' per day 3.00
	Concessions20' x 20' or more, per day 5.00
(\mathbf{g})	Tent shows, except religious:
	Per day
	Per week
(h)	Any amusement or entertainment or show of any kind,
except religious, on any lot of land in the city not included above:	
	Per day
	Per week
(2) The a	above fees shall not apply to those activities fostered and
pervised by the recreation department of the city or to permanently located	
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supervised by the recreation department of the city or to permanently located amusement facilities. (1969 Code, § 5-13, modified)

9-504. Occupancy of structure prohibited prior to issuance of permit. It shall be unlawful for any person to cause or permit the occupancy of a structure for purposes defined in this chapter, as a place of assembly, unless the permit required by this chapter has been issued. (1969 Code, § 5-14)

9-505. <u>Liability insurance and cash bond</u>. The applicant for a permit required by this chapter shall furnish evidence that a public liability insurance policy in the amount of not less than one hundred thirty thousand dollars (\$130,000.00) for one person and three hundred fifty thousand dollars (\$350,000.00) for any one accident, is in force and effect at the time such structure is to be occupied as a place of assembly by the public. The applicant shall deposit with the city finance director a cash bond in the sum of three

hundred dollars (\$300.00), conditioned that no damage will be done to the streets, sewers, trees or adjoining property and that no dirt, paper, litter or other debris will be permitted to remain upon the streets or upon any private property by such applicant. Such cash bond shall be returned to the applicant upon certification by the city manager that all conditions of this chapter have been complied with. (1969 Code, \$ 5-15, modified)

9-506. <u>Inspection of premises</u>. The city manager shall cause an inspection to be made, at least forty-eight (48) hours prior to the first performance or to the erection of a structure for which a permit is required by this chapter, to determine if provisions of all health, safety, and zoning rules, regulations, and appropriate sections of this code are complied with or will be complied with in a satisfactory manner. (1969 Code, § 5-16)

9-507. <u>Revocation of permit</u>. If the city manager finds that a structure is being maintained in violation of any of the provisions of this chapter, or in such a manner as to constitute a fire hazard, the city manager may revoke the permit issued under this chapter and it shall thereafter be unlawful for any person to continue to operate the activity or show covered by such permit or to allow the occupancy of such structure. (1969 Code, § 5-17)

CHAPTER 6

SWIMMING POOLS¹

SECTION

- 9-601. Definitions.
- 9-602. Permit to operate.
- 9-603. Approval of plans and specifications.
- 9-604. Inspections.
- 9-605. Responsibility for closing pool.
- 9-606. Standards of compliance.
- 9-607. Fencing required.
- 9-608. Penalty for violation.

9-601. <u>Definitions</u>. (1) "Swimming pool." A swimming pool is an artificial body of water used collectively by a number of persons primarily for the purpose of swimming, recreational bathing or wading, and includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the swimming pool such as equipment, dressing, locker, shower and toilet rooms. Public swimming pools include but are not limited to those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, trailer coach parks, subdivisions and the like. Pools used for the purpose of providing swimming instructions for a consideration are included within the coverage of this chapter. Pools and portable pools located on the same premises with a 1, 2, 3, or 4 family dwelling and for the benefit of the occupants and their guests, natural bathing areas such as streams, lakes, rivers or human-made lakes are exempt from §§ 9-602 through 9-606 of this chapter.

(2) "Operator." The term "operator" shall mean any person who, by contract, agreement, or ownership, takes responsibility for the operation of any swimming pool.

(3) "Person." The word "person" shall mean any individual, firm, corporation, or association, or any other public or private entity. (1969 Code, \S 5-65)

9-602. <u>Permit to operate</u>. It shall be unlawful for any person to operate a swimming pool in the city who does not possess a permit from the city manager. A permit shall be issued by the city manager for such an operation upon application and upon determination that the proposed operation complies

¹Municipal code reference

Building, utility, etc., codes: title 12. Privilege taxes: title 5, chapter 2.

with the requirements of this chapter. Permits shall not be transferrable with respect to persons or locations. Such a permit may be suspended by the city manager upon violation by the permit holder of any terms of this chapter, or for interference with the city manager in the performance of the city manager's duties, or may be revoked, after an opportunity for a hearing by the city manager, upon serious or repeated violations. (1969 Code, § 5-66)

9-603. <u>Approval of plans and specifications</u>. No person shall construct, install, provide, equip, or alter a swimming pool until the plans and specifications thereof have been submitted to and approved in writing by the city manager.

The city manager shall examine the plans and specifications using the Tennessee Department of Public Health minimum standards for public swimming pools as a guideline and determine whether the pool facilities, if constructed in accordance therewith, are or would be sufficient and adequate to protect the public health and safety. If the plans and specifications are not approved, the city manager shall notify the applicant of the deficiencies. The applicant may have plans and specifications amended to remedy the deficiencies and resubmit the documents for further consideration. All plans and specifications shall be approved by the city manager prior to beginning construction. (1969 Code, § 5-67)

9-604. <u>Inspections</u>. The city manager shall make periodic inspections of all public swimming pools. The city manager shall be permitted access to all areas of the swimming pool at any reasonable time and shall be permitted to make tests and collect samples required to determine the quality of the swimming pool water. (1969 Code, § 5-68)

9-605. <u>Responsibility for closing pool</u>. The pool operator shall be responsible for closing the swimming pool whenever it is unsafe for use and not reopening until the unsafe condition has been eliminated. The city manager may order such closing if the operator neglects to do so, or during an epidemic of certain diseases in the community. (1969 Code, § 5-69)

9-606. <u>Standards of compliance</u>. A swimming pool shall be considered unsafe for use when one or more of the following conditions exist:

(1) Whenever the disinfectant residual is too low or absent; the free chlorine residual is less than 0.4 ppm, or bromine residual is less than 1.0 ppm during any five hour period when the pool is open for use.

(2) Whenever turbidity is great enough that a disc two (2) inches in diameter which is divided into quadrants in alternate colors of red and black is not discernable through fifteen (15) feet of water and the different colors are not readily distinguishable.

(3) Whenever the growth of algae is great enough to cause slipping hazards.

(4) When on two (2) successive samples collected twenty-four (24) hours apart, the coliform bacteria count exceed one organism of the coliform group per 100 ml of water or the total bacteria count exceeds 200 colonies per milliliter.

(5) Whenever the water level in the pool is too low or too high and prevents gutters or skimmers from functioning properly. If existing pools are not constructed with built in gutters or skimmer, other skimming methods may be approved which will remove extraneous floating matter, such as hair, lint, etc., from the pool.

(6) Whenever there are foreign objects, such as broken glass, in the pool which would impair the safety of the users.

(7) Whenever unapproved or unsafe chemicals or excessive quantities of otherwise proper chemicals are used.

(8) Whenever the surroundings such as the deck, shower areas and toilet rooms are insanitary or in disrepair.

(9) Whenever the pH of the swimming pool is less than 7.1 or greaer than 7.6. (1969 Code, § 5-70)

9-607. <u>Fencing required</u>. Every outdoor swimming pool shall be completely surrounded by a fence or wall not less than four (4) feet in height, which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates; and if a picket fence is erected or maintained, the horizontal dimensions shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such enclosure.

All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped.

This requirement shall be applicable to all new swimming pools hereafter constructed, other than indoor pools, and shall apply to all existing pools which have a depth of eighteen (18) inches or more of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant or a licensee, upon which is situated a swimming pool having a depth of eighteen (18) inches or more, shall fail to provide and maintain such fence or wall as herein provided.

The city manager may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefor, provided the protection as sought hereunder is not reduced thereby. The city manager may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein. The city manager

shall allow a reasonable period within which to comply with the requirements of this section, but in no case more than six (6) months. (1969 Code, § 5-71)

9-608. <u>Penalty for violation</u>. Any person violating this chapter, upon conviction, shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) or sentenced to city jail for not more than ninety (90) days, or both such fine and jail sentence in the discretion of the court. Each day that such violation continues shall constitute a separate offense. (1969 Code, § 5-72)

CHAPTER 7

ADULT ENTERTAINMENT ESTABLISHMENTS¹

SECTION

- 9-701. Purpose and findings.
- 9-702. Definitions.
- 9-703. Location of adult entertainment establishments.
- 9-704. Hours of operation; inspection.
- 9-705. License required.
- 9-706. Application for license.
- 9-707. Inspections.
- 9-708. Issuance of license.
- 9-709. Extensions of time for applicant.
- 9-710. Denial of license.
- 9-711. Layout standards for issuance of license.
- 9-712. Permit required.
- 9-713. Application for permit.
- 9-714. Standards for issuance of permit.
- 9-715. Fees.
- 9-716. Display of license or permit.
- 9-717. Renewal of license or permit.
- 9-718. Fees for renewal of license or permit.
- 9-719. Revocation or suspension of license or permit.
- 9-720. Appeal of revocation or suspension.
- 9-721. Judicial review.
- 9-722. Responsibilities of the operator and employees.
- 9-723. Prohibited activities.
- 9-724. Penalties.

9-701. <u>Purpose and findings</u>. (1) <u>Purpose</u>. It is the purpose of this chapter to regulate adult entertainment establishments to promote the health, safety, and welfare of the citizens of the City of Oak Ridge, and to establish reasonable and uniform regulations. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials or entertainment. Similarly, it is not the intent nor the effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the first amendment, or to deny access by the distributors and exhibitors of sexually oriented materials or entertainment to their intended market.

¹Municipal code reference

Privilege taxes: title 5, chapter 2.

(2) <u>Findings</u>. Based on evidence concerning the adverse secondary effects of adult entertainment establishments on communities presented in reports and studies made available to city council, including but not limited to, Austin, Texas; Phoenix, Arizona; Los Angeles, California; and Minnesota; and on findings incorporated in cases, including but not limited to, <u>City of Renton v.</u> <u>Playtime Theatres, Inc.</u>, 106 S.Ct. 925 (1986); <u>Young v. American Mini Theatres, Inc.</u>, 96 S.Ct. 2440 (1976); <u>FW/PBS, Inc. v. City of Dallas</u>, 110 S.Ct. 596 (1990); <u>DLS Inc. a/b/a Diamonds and Lace Showbar v. City of Chattanooga</u>, 107 F.3d 403 (6th Cir. 1997), 914 F. Supp. 193 (E.D. Tenn. 1995), 894 F. Supp. 1140 (E.D. Tenn. 1995); and on studies incorporated in the case of <u>ILQ Investments, Inc.</u> v. City of Rochester, 25 F.3d 1413 (8th Cir. 1994); the city finds:

(a) Adult entertainment establishments lend themselves to unlawful and unhealthy activities.

(b) Sexual acts, including masturbation, oral sex and anal sex, occur at adult entertainment establishments, especially those which provide private or semi-private booths or cubicles for secluded viewing adult material or live sex shows.

(c) Numerous diseases may be spread by activities occurring in adult entertainment establishments including, but not limited to, acquired immunodeficiency syndrome (AIDS), human immunodeficiency virus (HIV), chlamydia, gonorrhea, and syphilis.

(d) Numerous studies have determined that semen is found in the areas of adult entertainment establishments where persons view adult oriented films.

(e) Conditions in some adult entertainment establishments are unsanitary and unhealthy, in part because the activities conducted there are unhealthy and because the owners fail to regulate the activities and maintain the facilities in a healthy and sanitary manner.

(f) Permitting entertainers to be in close contact with patrons initiates the exchange of money which may reasonably be expected to serve as an opportunity to solicit for and an inducement to agree to unprotected and/or illegal sexual activity, including but not limited to, prostitution, pandering, solicitation for prostitution, exposing minors to harmful materials, and the possession, distribution and transportation of obscene materials. (Ord. #16-99, Aug. 1999)

9-702. <u>Definitions</u>. (1) "Adult entertainment" means the regular presentation, for a fee or incidentally to another service, of material or exhibitions distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons.

(2) "Adult entertainment establishment" means any commercial establishment, including but not limited to: adult bookstore, adult cabaret, adult motel, adult nightclub, adult telecommunications business, adult theater,

and adult video store. Adult entertainment establishment further means any commercial establishment to which the public patrons or members are invited or admitted and which are so physically arranged as to provide booths, stalls, cubicles, or rooms separate from the common areas of the premises for the purpose of viewing sexually oriented motion pictures, sexually oriented movies, sexually oriented films, adult videos, or wherein an entertainer provides sexually oriented entertainment to a member of the public, a patron, or member.

(3) "Adult bookstore" means a business having a majority of its stock and trade, a majority of its total sales, or a majority of its floor space in books, films, video cassettes, magazines, other periodicals, devices, paraphernalia or any other items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, or any combination or form thereof, for observation by patrons; or in conjunction therewith has facilities for the presentation of sexually oriented material, including sexually oriented movies, adult videos, sexually oriented films, or sexually oriented live entertainment, for observation by patrons.

(4) "Adult cabaret" means an establishment which features as a principal use of its business, entertainers or any employees who expose to the public view of patrons with the establishment, at any time, "specified anatomical areas" even if completely covered by translucent material; including swimsuits, lingerie, or latex covering. Adult cabarets also include any commercial establishments that feature entertainment of an erotic nature including female topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

(5) "Adult motel" means any hotel, motel, or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas," as defined below; and may have a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions. This definition shall not include "R-rated" films so defined by the Motion Picture Association; or

(b) Offers a sleeping room for rent more than two (2) times in a period of ten (10) hours; or

(c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours; or

(d) Offers or allows a discount or refund which is less than half the normal daily rate.

(6) "Adult nightclub" means a theater, concert hall, auditorium, nightclub, bar, restaurant, or similar commercial establishment which regularly

features live performances that are characterized by any actual or simulated performance of "specified sexual activities" or the exposure of "specified anatomical areas," as defined below.

(7) "Adult telecommunications business" means a commercial establishment where, by means of a telephone or other telecommunications device, any communication characterized by the description of "specified sexual activities" or "specified anatomical areas," as defined below, is made for commercial purposes to any person, regardless of whether the maker of such communication placed the call.

(8) "Adult theater" means an enclosed building regularly used for presenting films, motion pictures, video cassettes, slides, or other photographic reproductions or other material having as a dominate theme or presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation by patrons therein.

(9) "Adult video store" means an establishment having a majority of its stock and trade, a majority of its total sales, or a majority of its floor space in films, videos, or any other photographic reproductions or visual images which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas," as defined below, for observation, purchase, or rental of sexually oriented material, including sexually oriented movies, adult videos, sexually oriented films, or sexually oriented live entertainment. This definition shall only include films which receive a rating above "R-rated" by the Motion Picture Association.

(10) "Chief of police" means the Chief of Police for the City of Oak Ridge, Tennessee or his or her duly authorized representative.

(11) "Employee" means a person who performs any service on the premises of an adult entertainment establishment on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not such person is paid a salary, wage, or other compensation by the operator of such business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

(12) "Entertainer" means any person who provides entertainment within an adult entertainment establishment, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee, escort, or independent contractor.

(13) "Escort" means a person who, for consideration, dates, socializes, visits, consorts with, accompanies, or offers to date, socialize, visit, consort or accompany to social affairs, entertainment or places of amusement or within any place of public resort or within any private quarters of a place of public resort.

(14) "Escort service" means a person or business association who, for consideration, furnishes, offers to furnish, or advertises to furnish escorts or provides or offers to introduce patrons to escorts.

(15) "Massage" means any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or stroking, kneading, rubbing, tapping, pounding, vibrating, stimulating or otherwise manipulating of a part or the whole of the human body or the muscles or joints thereof, with the hands or with the aid of any mechanical electrical appartus with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointment, or other such similar preparations commonly used in the practice of massage, under such circumstances that it is reasonably expected that the person to whom the treatment is provided, or some third person on his or her behalf, will pay money or give any other consideration or gratuity therefor. Massage shall also mean the giving, receiving or administering of a bath to any person, or the application of body paint to any person.

(16) "Massage establishment" means any establishment having a source of income or compensation derived from the practice of massage, and which has a fixed place of business where any person engages in or carries on any of the activities listed under the definition of massage.

(17) "Operator" means any person, partnership, corporation or other entity operating, conducting, or maintaining an adult entertainment establishment.

(18) "Police department" means the Police Department for the City of Oak Ridge, Tennessee.

(19) "Sexually oriented material" means any book, article, magazine, publication, or written matter of any kind, drawing, etching, painting, photograph, motion picture film, or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals, or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits human male genitals in a discernibly turgid state, even if completely covered, or any similar material.

(20) "Specified anatomical areas" mean:

- (a) Less than completely and opaquely covered:
 - (i) Human genitals;
 - (ii) Pubic region;
 - (iii) Buttocks; and

(iv) Female breasts below a point immediately above the top of the areola.

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(c) Use of artificial devices or inanimate objects to depict any of the items described above.

(21) "Specified sexual activities" means:

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

(b) Acts of human masturbation, sexual intercourse, oral sex, or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts;

(d) Acts of bestiality; and

(e) Use of artificial devices or inanimate objects to depict any of the activities described above. (Ord. #16-99, Aug. 1999)

9-703. Location of adult entertainment establishments. All adult entertainment establishments must be located within an area zoned as B-2 as set forth in the zoning ordinance and must comply with the additional requirements set forth below.

(1) An operator commits an offense if he or she operates or causes to be operated an adult entertainment establishment within one thousand feet (1,000') of any existing: public or private, or charter school; child care facility; public park; place of worship; family recreation center (as defined in <u>Tennessee</u> <u>Code Annotated</u>, § 7-51-1401); hospital; mortuary; or adult entertainment establishment.

(2) An operator commits an offense if he or she operates or causes to be operated an adult entertainment establishment within one thousand feet (1,000') of any existing residential zoning district.

(3) The distance shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of a parcel where an adult entertainment establishment is conducted, to the nearest point on the property line of the parcel containing any of the areas listed in subsections (1) and (2). (Ord. #16-99, Aug. 1999, as replaced by Ord. #16-2012, Oct. 2012)

9-704. <u>Hours of operation; inspection</u>. (1) No adult entertainment establishment shall be open to do business before eight o'clock A.M. (8:00 A.M.), Monday through Saturday; and no establishment shall remain open after twelve o'clock (12:00) midnight, Monday through Saturday. No adult entertainment establishment shall be open for business on any Sunday or legal holiday as designated by state law.

(2) All adult entertainment establishments shall be open to inspection during business hours to the following departments: code enforcement, fire and police. (Ord. #16-99, Aug. 1999)

9-705. <u>License required</u>. (1) No adult entertainment establishment shall be operated or maintained within the City of Oak Ridge without first obtaining a license to operate issued by the police department.

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

corporation or other entity which desires to operate more than one (1) adult entertainment establishment must have a separate license for each establishment.

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

(4) It shall be unlawful for any entertainer, employee, or operator to knowingly work in or about or to knowingly perform any service directly related to or at the request of the operation of any unlicensed adult entertainment establishment. (Ord. #16-99, Aug. 1999)

9-706. <u>Application for license</u>. (1) Any person, partnership, corporation or other entity desiring to secure a license shall make application to the police department. The application shall be filled in and dated by the police department. The application shall have three copies. The original shall be retained by the police department and the copies distributed promptly to code enforcement, the fire department and the applicant.

(2) The application for the license shall be upon a form provided by the police department.

(3) The following persons must obtain a license: any general partner of a partnership, any officer or director of a corporate applicant, and any stockholder holding a majority or a controlling percentage of the stock of a corporate applicant, and who is involved in the day to day operation of the establishment.

(4) The applicant shall furnish the following information under oath:

(a) Name and address, including all aliases;

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

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

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

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

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

(g) All criminal statute violations, whether federal or state, or city ordinance violations, for which convictions, forfeiture of bond, or pleadings of nolo contendere have occurred, except minor traffic violations; (h) All citations issued and sustained by a court within the past two (2) years for violations of provisions of the zoning ordinance applicable to adult entertainment establishments;

(i) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches in size, taken within sixty (60) days immediately prior to the date of application, showing the head and shoulders of the applicant in a clear and distinguishable manner;

(j) The address of the adult entertainment establishment to be operated by the applicant;

(k) If the applicant is a corporation, the application shall specify the name, address and telephone number of the corporation, the date and state of incorporation, the name and address of the registered agent for service of process of the corporation, the name and address of all officers and directors of the corporation, and the name and address of any stockholder holding a majority or a controlling percentage of the stock and who will be involved in the day to day operation of the business;

(l) If the applicant is a partnership, joint venture, or any other type of business, the applicant shall specify the name and address of all persons who will be involved in the day to day operation of the business and the name and address of all general partners of the partnership;

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

(n) The length of time the applicant has been a resident of the City of Oak Ridge or its environs immediately preceding the date of the application;

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

(p) If the applicant intends to have booths, stalls, cubicles, or rooms on the premises for the purpose of viewing sexually oriented films, adult videos, or live sexually oriented exhibitions, then along with the application, the applicant shall provide the police department with a diagram, drawn to scale, of the premises, including but not limited to, the location and layout of all booths, stalls, cubicles, or rooms and the locations of the clerk/manager's stand or counter. Though the diagram must be drawn to scale, it does not have to be professionally prepared. (Ord. #16-99, Aug. 1999)

9-707. <u>Inspections</u>. (1) The police department, code enforcement and fire department shall, upon receipt of the application, inspect the premises to insure the establishment complies with the code of ordinances including applicable zoning ordinances, fire ordinances, and regulations.

(2) If a diagram is required to be submitted under § 9-706(4)(p), then the code inspector shall confirm that the layout of the booths, stalls, cubicles, or rooms complies with the submitted diagram and the requirements in § 9-711.

(3) All departments shall complete their inspections and shall communicate their results to the chief of police, in writing, within thirty (30) days of receipt of the application. The writing shall end with one of the following statements:

"The location at _____ complies with the relevant and applicable code sections, rules, and regulations."

"The location at _____ does not comply with the relevant and applicable code sections, rules, and regulations. It is in violation of the following provisions: <u>Section numbers of code</u> <u>violations</u>.

(4) If the building has a valid use and occupancy permit, the applicant shall provide the police department with a copy of the valid use and occupancy permit which shall be made part of the applicant's file. (Ord. #16-99, Aug. 1999)

9-708. <u>Issuance of license</u>. (1) Within ten (10) days of receiving the results of all department investigations and the criminal background check, the chief of police shall determine if the applicant is in compliance with applicable statutes, ordinances, rules, and regulations. If the applicant, including any officer, director or stockholder required to be named under § 9-706(4)(k), is in compliance and is at least eighteen (18) years of age, has not given any false or misleading information on the application, and has not omitted any material facts from the application, then the chief of police shall grant the license.

(2) Any applicant including any officer, director or stockholder required to be named under § 9-706(4)(k), convicted of or who pleaded nolo contendere to any crime of a sexual nature, or any crime involving moral turpitude shall be ineligible to receive a license for the time period described below. Such denial and reason for the denial shall be mailed to the applicant within ten (10) days of receiving the results of the investigations. The applicant may re-apply once the time period has expired.

(a) If the conviction or plea was for a misdemeanor violation, then the applicant shall be ineligible to receive a license for two (2) years.

(b) If the conviction or plea was for a felony violation, then the applicant shall be ineligible to receive a license for five (5) years.

(c) The time is computed from the date of the conviction, plea, or release from confinement, whichever is later.

(3) If the applicant has violated the provisions of the zoning ordinance applicable to adult entertainment establishments within the past two (2) years, then the applicant shall be ineligible to receive a license for one (1) year from the date the citation was issued.

(4) If the establishment is not in compliance with the layout requirements or the submitted diagram, then the applicant is not in compliance and the license shall be denied until the applicant is in compliance.

(5) If in the course of any investigation it is discovered that any false or misleading information was given on the application, or material facts omitted, the chief of police shall deny the application.

(a) The applicant shall be ineligible to receive a license for one (1) year from the date of the application which contained misleading, false, or omitted information, unless such information referred to the age of the applicant or to any crime.

(b) If the false, misleading, or omitted information referred to the age of the applicant, then the applicant shall be ineligible to receive a license until all persons who will participate in the day to day operation of the establishment are eighteen (18) years of age or until one (1) year has passed from the date of the application, whichever is longer.

(c) If the false, misleading, or omitted information referred to any crime, then the applicant shall be ineligible to receive a license until the time limit in subsection (2) has expired.

(6) The chief of police has the discretion to hold any and all applications for further investigation, which shall not exceed thirty (30) days, unless the applicant agrees otherwise, if:

(a) The initial investigation indicates a need for additional information,

(b) The initial investigation requires investigation into out-ofstate records, or

(c) Verification of out-of-state employment is needed.

(7) In no circumstances shall a license be issued without the police department completing a full investigation into the applicant's criminal background. (Ord. #16-99, Aug. 1999)

9-709. Extensions of time for applicant. (1) The applicant has ten (10) days from the mailing of the notice to cure the violations and notify the police department. The police department has five (5) days, from the date of notification by the applicant, to notify the appropriate department that the applicant believes he or she has come into compliance and requests another inspection. The inspector shall reinspect within ten (10) days of receiving notice by the police department and notify the police department of the result.

(2) The applicant may request an extension from the police department if the process of curing the violation takes longer than ten (10) days. The request shall be in writing and filed with the police department within ten (10) days of the notice of denial. The police department shall grant the extension only when the applicant has made a good faith effort to make the necessary repairs or cure the violation(s) in a timely manner. Once the applicant notifies the police department that the applicant believes he or she has come into compliance, the time limits imposed under subsection (1) shall apply. (Ord. #16-99, Aug. 1999)

9-710. <u>Denial of license</u>. (1) Whenever an application has been denied or held for further investigation, the chief of police shall notify the applicant in writing of the reasons for such action. If the applicant requests a hearing, in writing, to the police department within ten (10) of the mailing of the notification of denial, a public hearing shall be held thereafter before city council at which time the applicant may present evidence as to why his or her license should not be denied. The public hearing shall be within thirty (30) days of the police department's receipt of the request. City council shall either affirm or reject the denial of the application at the hearing.

(2) Failure on the part of the applicant to request within the time limit provided is a waiver of the right to a hearing before city council.

(3) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the chief of police. (Ord. #16-99, Aug. 1999)

9-711. Layout standards for issuance of license. (1) Any adult entertainment establishment having available for customers, patrons, or members any booth, stall, cubicle, or room for private viewing of any adult entertainment including but not limited to, sexually oriented films, sexually oriented movies, adult videos, or sexually oriented live exhibitions, shall submit a diagram with the application and such diagram shall be substantially the same as the structure observed by the inspector.

(2) Each booth, stall, cubicle, or room shall be totally accessible to and from aisles and public areas of the adult entertainment establishment and shall be unobstructed by any door, curtain, gate, lock, or other control-type devices.

(3) Every booth, stall, cubicle, or room shall meet the following construction requirements:

(a) It shall be separated from adjacent booths, stalls, cubicles, and rooms and any nonpublic areas by a solid or opaque wall;

(b) It shall have at least one (1) side totally open to a lighted public aisle so that there is an unobstructed view at all times of anyone occupying same;

(c) All walls shall be solid and without any openings, extended from the floor to a height of not less than six (6) feet and be light colored, nonabsorbent, smooth textured, and easily cleaned; and

(d) Each booth, stall, cubicle, or room shall be illuminated by a light bulb of wattage no less than twenty-five (25) watts.

(4) Only one patron shall occupy a booth, stall, cubicle, or room at any time. No occupant of the same shall engage in any type of sexual activity, cause

any bodily discharge, or litter while in the booth. No individual shall damage or deface any portion of the booth.

(5) The requirements of subsections (1) through (3) of this section shall not apply to bathrooms unless the bathroom contains any equipment which would allow the viewing of sexually oriented films, sexually oriented movies, adult videos, or sexually oriented live exhibitions. (Ord. #16-99, Aug. 1999)

9-712. <u>Permit required</u>. In addition to the license requirements previously set forth for owners and operators of adult entertainment establishments, no person shall be an employee or entertainer in an adult entertainment establishment without first obtaining a valid permit issued by the police department. (Ord. #16-99, Aug. 1999)

9-713. <u>Application for permit</u>. (1) Any person desiring to secure a permit shall make application to the police department. The original shall be filed with the police department and the copy given to the applicant.

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

(a) Name and address, including all aliases;

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

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

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

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

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

(g) All criminal statute violations, whether federal or state, or city ordinance violations, for which conviction, forfeiture of bond, and pleadings of nolo contendere have occurred, except minor traffic violations.

(h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches in size, taken within sixty (60) days immediately prior to the date of application, showing the head and shoulders of the applicant in a clear and distinguishable manner.

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

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

(3) Within ten (10) days of completing the investigation, the chief of police shall notify the applicant, in writing, that his or her application is granted, denied, or held for further investigation.

(4) The chief of police has the discretion to hold any and all applications for further investigation, which shall not exceed an additional thirty (30) days, unless otherwise agreed to by the applicant. Upon conclusion of such additional investigations, the chief of police shall advise the applicant, in writing, whether the application is granted or denied. The chief of police may hold an application for further investigation if:

(a) The initial investigation indicates a need for additional information,

(b) The initial investigation requires investigation into out-ofstate records, or

(c) Verification of out-of-state employment is needed.

(5) Whenever an application is denied or held for further investigation, the chief of police shall advise the applicant, in writing, of the reasons for such action. If the applicant requests a hearing, in writing, to the police department within ten (10) days of the mailing of notification of denial, a public hearing shall be held thereafter before city council at which time the applicant may present evidence bearing upon the question. The public hearing shall be held within thirty (30) days of the police department's receipt of the request. City council shall either affirm or reject the denial of the application at the hearing.

(6) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the chief of police. (Ord. #16-99, Aug. 1999)

9-714. <u>Standards for issuance of permit</u>. (1) To receive a permit as an employee, an applicant must meet the following standards:

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

(b) The applicant shall not have been convicted of or plead nolo contendere to any felony or any crime of a sexual nature or involving moral turpitude within the past five (5) years immediately preceding the date of the application.

(c) The applicant shall not have been convicted of or plead nolo contendere to any misdemeanor of a sexual nature or involving moral

turpitude within the past two (2) years immediately preceding the date of the application.

(d) The time is computed from the date of the conviction, plea, or release from confinement.

(e) The applicant shall not have been found to violate any provision of this chapter within one (1) year immediately preceding the date of the application.

(f) If, in the course of any investigation, it is discovered that any false or misleading information was given on the application, or material facts omitted from the application, the chief of police shall deny the application.

(i) The applicant shall be ineligible to receive a permit for one (1) year from the date of the application which contained the false, misleading, or omitted information, unless such information referred to the age of the applicant or to any crime.

(ii) If the false, misleading, or omitted information referred to the age of the applicant, then the applicant shall be ineligible to receive a permit until he or she is eighteen (18) years of age or until one (1) year has passed from the date of the application, whichever is longer.

(iii) If the false, misleading, or omitted information referred to any crime, then the applicant shall be ineligible to receive a permit until the time period described in § 9-708(2) has expired.

(g) The permit carried by the employee shall only contain the following information: a photo identification as provided by the applicant, a computer-generated number assigned to each employee that corresponds to the file maintained on each applicant by the police department, and the applicant's date of birth.

(2) No permit shall be issued until the police department has conducted a full investigation into the applicant's qualifications to receive a permit. (Ord. #16-99, Aug. 1999)

9-715. <u>Fees</u>. (1) A license fee of five hundred dollars (\$500) shall be submitted with the application for a license. If the application is denied, one-half $\binom{1}{2}$ of the fee shall be returned.

(2) A permit fee of one hundred dollars (\$100) shall be submitted with the application for a permit. If the application is denied, one-half ($\frac{1}{2}$) of the fee shall be returned. (Ord. #16-99, Aug. 1999)

9-716. <u>Display of license or permit</u>. (1) The license shall be displayed in a conspicuous public place in the adult entertainment establishment.

(2) The permit shall be carried by or be accessible to the employee during the employee's working hours and shall be displayed upon request of any patron, customer or law enforcement personnel.

(3) If the business for which a license was issued ceases to exist for any reason, such license shall be returned to the police department. (Ord. #16-99, Aug. 1999)

9-717. <u>Renewal of license or permit</u>. (1) Every license and permit issued pursuant to this chapter shall terminate at the expiration of one (1) year from the date of the issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year.

(2) Any operator desiring to renew a license or employee desiring to renew a permit shall make application to the police department.

(3) Application for renewal must be filed not later than sixty (60) days prior to the expiration of the license or permit.

(4) An application for renewal of a license requires three copies: the original is retained by the police department and the copies are given to code enforcement, the fire department and the applicant.

(5) An application for renewal of a permit requires one copy: the original is retained by the police department and the copy is given to the applicant.

(6) The police department shall provide the applicant with a copy of the application from the previous year and a new application form. The form shall be the same as the original application except the final line shall state:

"I swear the information I have given in the application from (previous year) is still accurate and any facts or circumstances which have changed are indicated in this application for renewal of the license/permit."

(7) For a renewal, an applicant may fill out the new application in its entirety or may fill in any information which has changed over the year and is now different from the prior year.

(8) If the applicant chooses to only include information which has changed in the past year, the applicant shall swear to the accuracy of both the information contained in the renewal application and the information attached from the prior year.

(9) Notwithstanding anything herein to the contrary, any application for renewal of a license or a permit shall be handled, investigated and approved or denied within the same time periods as those established in this chapter for original license and permit applications. (Ord. #16-99, Aug. 1999)

9-718. Fees for renewal of license or permit. (1) A license renewal fee of five hundred dollars (\$500) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars (\$100) shall be assessed against the applicant who files for renewal less than

sixty (60) days before the license expires. If the application for renewal is denied, one-half $(\frac{1}{2})$ of the total fees shall be returned.

(2) A permit renewal fee of one hundred dollars (\$100) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of fifty dollars (\$50) shall be assessed against the applicant who files for renewal less than sixty (60) days before the permit expires. If the application for renewal is denied, one-half ($\frac{1}{2}$) of the total fees shall be returned. (Ord. #16-99, Aug. 1999)

9-719. <u>**Revocation or suspension of license or permit**</u>. The chief of police shall revoke a license or permit when:

(1) It is discovered that false or misleading information was given on any application or material facts were omitted from any application;

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

(3) The operator or employee becomes ineligible to obtain a license or permit;

(4) Any cost or fee required to be paid by this chapter is not paid;

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

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

(7) An operator, employee, or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult entertainment or sexually oriented material;

(8) An operator, employee, or entertainer denies access to law enforcement personnel to any portion of the licensed premises wherein adult entertainment is permitted or to any portion of the licensed premises wherein sexually oriented materials is displayed or sold;

(9) An operator allows the continuing violation of any city ordinance, including any of the rules and regulations of code enforcement, the fire department or the zoning ordinance;

(10) An operator fails to maintain the premises in a clean, sanitary, and safe condition; or

(11) Any person transfers or attempts to transfer a license or permit or any interest in a license or permit. This shall automatically and immediately revoke the license or permit. An operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. (Ord. #16-99, Aug. 1999)

9-720. <u>Appeal of revocation or suspension</u>. (1) The police department shall give the operator or employee at least fifteen (15) days written notice of the revocation or suspension listing the specific charges against him or her and the opportunity to have a public hearing before city council.

(2) The operator or employee may make a written request, within ten (10) days from the mailing of the notification of the police department, for a hearing before city council on the issue of the revocation or suspension. The written request must be sent to the police department.

(3) If the operator or employee requests a hearing before city council, the license or permit shall remain in effect and valid during the appeal to city council.

(4) The operator or employee may present evidence bearing on the question of revocation or suspension.

(5) City council shall hear, within thirty (30) days, all evidence pertaining to the revocation or suspension. At the meeting, city council shall either affirm or reject the revocation or suspension.

(6) If the operator or employee fails to request a hearing within ten (10) days of the mailing of notification from the police department, he or she will have waived the right to a hearing before city council. (Ord. #16-99, Aug. 1999)

9-721. <u>Judicial review</u>. All decisions on the revocation, suspension, refusal to issue, or non-renewal of a license or permit may be reviewed by the chancery courts. (Ord. #16-99, Aug. 1999)

9-722. <u>Responsibilities of the operator and employees</u>. (1) The operator shall maintain a register of all employees, showing the name and aliases used by the employee, home address, age, birthdate, sex, height, weight, color of hair and eyes, telephone numbers, social security number, driver license number, date of employment and termination, and duties of each employee. This information shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of employees available immediately for inspection by law enforcement personnel during business hours.

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

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

(5) There shall be posted and conspicuously displayed in the common areas of each adult entertainment establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult motion pictures shall be considered entertainment. The operator shall make a list available immediately upon demand by law enforcement personnel during business hours.

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

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

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

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

(10) A sign shall be conspicuously displayed in the common areas of the premises and shall read as follows:

This Adult Entertainment Establishment is Regulated by Code of Ordinances, City of Oak Ridge, Tennessee, title 9, chapter 7. Employees are:

(a) Not permitted to engage in any type of sexual conduct;

(b) Not permitted to expose their sex organs;

(c) Not permitted to demand or collect all or any portion of a fee or charge for entertainment before its completion. (Ord. #16-99, Aug. 1999)

9-723. <u>Prohibited activities</u>. (1) No operator, employee or entertainer of an adult entertainment establishment shall permit to be performed, offer to perform, perform, or allow customers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

(3) No employee, entertainer or customer shall be permitted to have any physical contact with any other person on the premises during any performance and all performance shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed at least six feet (6') from the nearest employee or customer. (Ord. #16-99, Aug. 1999)

9-724. <u>**Penalties**</u>. (1) Any individual, partnership, corporation or other entity violating any of the provisions of this chapter shall be subject to any of the following penalties:

(a) Five hundred dollars (\$500) for each offense; and/or

(b) Suspension of any license or permit for a specified time for each offense; or

(c) Revocation of any license or permit for any conduct listed in § 9-719.

(2) The penalty of suspension shall not be combined with revocation. However, the five hundred dollar (\$500) penalty may be combined with suspension.

(3) Each violation of this chapter shall be considered a separate offense and any violation continuing more than one (1) hour shall be considered a separate offense for each hour of the violation. (Ord. #16-99, Aug. 1999)

CHAPTER 8

ADULT ENTERTAINMENT--RELATED ESTABLISHMENTS

SECTION

9-801. Escort service.

9-802. Massage establishments.

9-801. <u>Escort service</u>. An escort service shall be subject to the licensing and permit provisions, location and inspection requirements, display requirements and the penalties of this chapter as it applies to adult entertainment establishments. (Ord. #16-99, Aug. 1999)

9-802. <u>Massage establishments</u>. (1) A massage establishment shall be subject to the licensing and permit provisions, location and inspection requirements, display requirements and the penalties of this chapter as it applies to adult entertainment establishments, except as follows:

(a) The application fee for a license shall be two hundred and fifty dollars (\$250);

(b) The application renewal fee for a license shall be two hundred and fifty dollars (\$250); and a late penalty of one hundred and twenty-five dollars (\$125) shall be assessed against the applicant who files for renewal less than sixty (60) days before the license expires.

(2) This section is inapplicable to those persons who perform massage as part of their profession, while acting within the scope of their profession, including but not limited to, state registered and licensed:

(a) Physicians or surgeons,

- (b) Chiropractors,
- (c) Physical therapists,
- (d) Nurses,
- (e) Health practitioner, or

(f) Barbers or beauticians, except that this exemption shall only apply to massaging of the neck, face, scalp, hair, hands and feet of the customer or client for cosmetic or beautifying purposes.

(3) The facilities of a massage establishment must comply with the following requirements, in addition to any other requirements provided in this chapter:

(a) Construction of rooms used for toilets, tubs, steambaths, and showers shall be made waterproof and shall be installed in accordance with the city building code. Plumbing fixtures shall be in accordance with the plumbing code.

(b) Steam rooms and showers shall have waterproof floors, walls, and ceilings.

(c) Floors of wet and dry heat rooms shall be adequately pitched to one (1) or more floor drains properly connected to the sewer, except that dry heat rooms with wooden floors need not be provided with pitched floors and floor drains.

(d) The premises shall have adequate equipment for disinfecting and sterilizing non-disposable instruments and materials used in administering massages. Such materials shall be disinfected and sterilized after each and every use on a patron.

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

(4) No employee of a massage establishment shall administer a massage who does not comply with the following individual health requirements:

(a) No employee shall administer a massage if such employee knows or should know that he or she is not free of any contagious or communicable disease.

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

(c) Each employee shall wash his or her hands in hot running water, using proper soap or disinfectant before administering a massage to each patron.

(5) The following acts shall be unlawful:

(a) It shall be unlawful for any person in a massage establishment to place his or her hand or hands upon or to touch with any part of his or her body, or to fondle in any manner or to massage, a sexual or genital part of a person.

(b) It shall be unlawful to any person in a massage establishment to expose his or her sexual or genital parts, or any portion thereof, to any other person.

(c) It shall be unlawful for any person, while in the presence of any other person in a massage establishment, to fail to conceal with fully opaque covering the sexual or genital parts of his or her body.

(d) The sexual or genital parts shall include the genitals, pubic area, buttocks or anus of any person, or the breast of any female. (Ord. #16-99, Aug. 1999)

TITLE 10

ANIMAL CONTROL

CHAPTER

- 1. GENERAL PROVISIONS.
- 2. RABIES CONTROL.
- 3. VICIOUS DOGS.
- 4. DOG PARKS.
- 5. KEEPING OF HENS.

CHAPTER 1

GENERAL PROVISIONS

SECTION

- 10-101. Definitions.
- 10-102. Supervision of animal shelter.
- 10-103. City designated as bird sanctuary.
- 10-104. Trapping, hunting and shooting birds prohibited; exceptions.
- 10-105. Registration of dogs and cats.
- 10-106. Registration fee for kennels.
- 10-107. Confinement of animals in heat.
- 10-108. Animals kept off the owner's property prohibited.
- 10-109. Animals at large prohibited.
- 10-110. Impoundment of animals running at large.
- 10-111. Impounding fees.
- 10-112. Failure to reclaim animal at large.
- 10-113. Authority to kill animals at large.
- 10-114. Keeping or possessing livestock.
- 10-115. Possession of wild animals prohibited.
- 10-116. Condition for sales of certain animals.
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- 10-121. Noisy animals prohibited.
- 10-122. Animals on school grounds.
- 10-123. Citation procedure for violation of this chapter.
- 10-124. Failure to obey animal control citation.
- 10-125. Acceptance of guilty pleas and penalties for animal control violations.
- 10-126. Collection and disposition of fees.
- 10-127. Penalties.

10-101. <u>Definitions</u>. The following definitions shall apply in the interpretation and enforcement of this chapter unless it is apparent from the context that a different meaning is intended:

(1) "Animal." The term "animal" means and includes all living nonhuman creatures, domestic or wild, including livestock.

(2) "Animal control officer." The term "animal control officer" means any officer of the Oak Ridge Police Department Division of Animal Control.

(3) "At large." The term "at large" means not under restraint.

(4) "Attack." The term "attack" means an unprovoked attack in an aggressive manner on a human in which the victim suffered a scratch, abrasion, or bruise; or on a domestic animal that causes death or injury that requires veterinary treatment.

(5) "Chief of police." The term "chief of police" means the Chief of Police for the City of Oak Ridge.

(6) "City manager." The term "city manager" means the City Manager for the City of Oak Ridge or the city manager's authorized designee.

(7) "Confined." The term "confined" means securely confined indoors, within an automobile or other vehicle solely for transportation and transported in a humane manner, or confined in a securely enclosed and locked pen or structure or fence, electronic or otherwise, upon the premises of the owner of such animal. However, under no circumstances is an electronic or similar fence sufficient to confine an animal in heat or a vicious dog.

(8) "Division of animal control." The term "division of animal control" means the Oak Ridge Police Department Division of Animal Control.

(9) "Guard" or "attack dog." The term "guard dog" or "attack dog" means a dog trained to attack on command or to protect persons or property, by attacking or threatening to attack, and who will cease to attack upon command.

(10) "Fowl." The term "fowl" means any wild or domesticated bird.

(11) "Impoundment." The term "impoundment" means the taking into custody of an animal by any police officer, animal control officer, or any authorized representative thereof.

(12) "Kennel." The term "kennel" means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs, puppies, cats, kittens or any other animal typically kept on such premises.

(13) "Livestock." The term "livestock" means all farm animals, including but not limited to cattle, horses, pigs, fowl, sheep, goats and mules.

(14) "Muzzle." The term "muzzle" means a device constructed of strong, soft material or metal, designed to fasten over the mouth of an animal to prevent the animal from biting any person or animal. Such device shall not interfere with the animal's ability to breathe.

(15) "Owner." The term "owner" means any person having a right of property in an animal, or who keeps or harbors an animal or who has it in his or her care, or acts as its custodian or who permits an animal to remain on or

about the person's premises. If an animal has more than one owner, all owners are jointly and severally liable for the acts or omissions of an owner.

(16) "Pig." The term "pig" means any type of pig, hog, or swine including, but not limited to, pot-bellied pigs.

(17) "Quarantine." The term "quarantine" means the humane confinement of an animal for the observation of symptoms for rabies, or other disease, in a secure enclosure that prevents the animal from coming into unplanned contact with any other animal or human being.

(18) "Restraint." (a) For all animals, the term "restraint" means on the premises of the owner and either

(i) In the owner's immediate presence and control or

(ii) Confined by a secure physical barrier (e.g., a fence,

pen, or electronic fence in good working order), chain or tether, or leash or lead under the control of a person physically capable of restraining the animal.

If off the premises of the owner, "restraint" means secured by leash or lead under the control of a person physically capable of restraining the animal and obedient to that person's commands. In the situation of duplexes, apartment complexes or other multi-residential areas, an animal is not under restraint if the animal is confined within a fence or other physical barrier that encloses the area that is common ground to all tenants and the animal must be restrained by other allowable methods.

(b) A dog or puppy may be restrained by a fixed point chain or tether for no more than eight (8) hours in a twenty-four (24) hour period.

(c) A dog may be exclusively restrained by a chain or tether provided that it is at least ten (10) feet in length, with swivels on both ends, and is properly attached to a pulley or trolley mounted on a cable which is also at least ten (10) feet in length and mounted at least four (4) feet and no more than seven (7) feet above ground level in a manner so as not to interfere or become entangled with objects on the property.

(d) Any tethering system employed shall not allow the dog or puppy to leave the owner's property.

(e) No chain or tether shall weigh more than one-eight (1/8) of the dog or puppy's body weight.

(f) Any chain or tether must be attached to a properly fitting collar or harness worn by the dog or puppy.

(19) "Severe attack." The term "severe attack" means an unprovoked attack upon a human being in which the victim suffered a severe bite or was shaken violently, and which causes serious physical trauma or death.

(20) "Wild animal." The term "wild animal" means any live monkey, non-human primate, raccoon, skunk, deer, wildcat, possum, fox, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal that can normally be found in the wild state. The term "wild animal" does not include domestic dogs (excluding hybrids with wolves, coyotes, or jackals), domestic cats

(excluding hybrids with ocelots or margays), livestock, rodents, reptiles, snakes, and captive-bred species of common cage birds. (Ord. #15-99, Aug. 1999, as amended by Ord. #20-02, Nov. 2002, as amended by Ord. #17-06, Sept. 2006)

10-102. <u>Supervision of animal shelter</u>. The city animal shelter shall be under the supervision of the city manager. (Ord. #15-99, Aug. 1999)

10-103. <u>City designated as bird sanctuary</u>. The corporate limits of the city are hereby designated a bird sanctuary. (Ord. #15-99, Aug. 1999)

10-104. <u>**Trapping, hunting, and shooting birds prohibited;**</u> <u>**exceptions**</u>. It shall be unlawful for any person to trap, hunt, shoot or attempt to shoot birds or wildfowl or to rob nests thereof, except that starlings, English sparrows and pigeons congregating in the city may be destroyed at the direction of the city manager. (Ord. #15-99, Aug. 1999)

10-105. <u>Registration of dogs and cats</u>. (1) All residents owning, keeping, or harboring any dog or cat over three (3) months of age or any other animal which must be vaccinated for rabies, shall pay to the city a yearly registration fee of three dollars (\$3) for each spayed or neutered dog or cat and ten dollars (\$10) for each unspayed or unaltered dog or cat owned, kept, or harbored.

(2) Upon receipt of the registration fee required by subsection (1) and the exhibition of an unexpired certificate of rabies vaccination, the city manager shall issue a registration certificate to the owner of the animal, giving the owner's name, date issued, amount paid, description, name, age and sex of the animal, the registration tag number issued, the date the animal was vaccinated, and the type of vaccine used.

(3) At the time a registration certificate is issued under subsection (2), the city manager shall also deliver a registration tag bearing the serial number of the registration certificate and the year in which it was delivered. The shape and/or color of the tag shall be changed every year and it shall be the duty of every owner to provide each registered animal with a collar or harness to which the registration tag must be affixed and such owner shall see that the collar or harness is constantly worn. If a registration tag is lost or destroyed, a duplicate will be issued upon presentation of a receipt showing the payment of the fee, and payment of a one dollar (\$1) duplicate tag fee.

(4) The registration tag is valid for a maximum period of twelve (12) months and will expire on the same date the rabies vaccination expires.

(5) It shall be unlawful for any person owning, keeping or harboring an animal within the city to fail to register such animal as required by this section.

(6) It shall be unlawful to transfer or place a registration tag onto any animal for which the tag was not issued.

(7) Animals within the city limits for thirty (30) days or less are not required to be registered.

(8) Persons newly residing within the city limits have thirty (30) days in which to comply with this section. (Ord. #15-99, Aug. 1999)

10-106. <u>Registration fee for kennels</u>. Persons operating a kennel where dogs are bred for sale shall not be required to pay the registration fee required by § 10-105, but in lieu thereof shall pay, on or before the first day of May of each year, or upon the operating of such kennel, a registration fee as a kennel operator. These fees are annual fees and shall be as follows:

- (1) Less than ten (10) animals, five dollars (\$5).
- (2) Between ten (10) and twenty (20) animals, ten dollars (\$10).
- (3) More than twenty (20) animals, fifteen dollars (\$15).

At no time shall the number of dogs in the kennel exceed the number covered by the registration fee. (Ord. #15-99, Aug. 1999)

10-107. <u>Confinement of animals in heat</u>. Every female animal in heat shall be confined for a period of twenty-four (24) days in such a manner that such animal cannot come into contact with another animal except for planned breeding. While exercised, the animal shall be properly leashed. (Ord. #15-99, Aug. 1999)

10-108. <u>Animals kept off the owner's property, prohibited</u>. (1) No animal, except livestock, shall be kept on a vacant lot or area that is not adjacent to the owner's property.

(2) An animal may be kept on the premises of the owner's business as protection while the business is closed, provided the owner complies with all applicable sections of this chapter. (Ord. #15-99, Aug. 1999)

10-109. <u>Animals at large prohibited</u>. No animal, whether registered or not, shall be allowed to run at large. (Ord. #20-02, Nov. 2002)

10-110. <u>Impoundment of animals running at large</u>. (1) It shall be the duty of the city manager or the city manager's duly authorized representative to apprehend and impound in the city animal shelter any animal found running at large or any animal found in such a condition that apprehension is warranted for the animal's health and/or safety.

(2) An animal wearing a valid city tag shall be held for a period of seven (7) working days from the date of apprehension. Untagged, unregistered animals shall be held for a period of three (3) working days. Days are defined as days the animal shelter is open.

(3) Any animal not claimed within the times provided in subsection (2) may be destroyed or sold.

(4) The impoundment of an animal under this section shall not relieve the owner thereof from prosecution for permitting such animal to run at large in violation of § 10-109.

(5) The record of the owner, and not the particular animal, for one (1) year prior to the date of the current violation, shall be considered when calculating the number of offenses committed.

(6) Any unaltered animal that has been impounded three (3) times within any twelve (12) month period shall be spayed or neutered within thirty (30) days of release from the shelter. The owner must show proof of the procedure to the division of animal control.

(7) In addition to, or in lieu of, apprehending and impounding an animal found at large, the animal control officer, upon determining the owner, may return the animal to the owner and issue a summons requiring the owner to appear in city court for determination of whether or not there has been a violation within the meaning of § 10-109.

(8) No animal shall be released from impoundment unless and until it has been vaccinated and registered and a tag placed on its collar. (Ord. #15-99, Aug. 1999, as amended by Ord. #20-02, Nov. 2002)

10-111. <u>Impounding fees</u>. The impounding fees are as follows:

- (1) Registered animal wearing a valid tag.
 - (a) Twenty dollars (\$20) for the first offense,
 - (b) Thirty dollars (\$30) for the second offense, and

(c) One hundred dollars (\$100) for the third offense plus an additional fifty dollars (\$50) for every subsequent offense.

- (2) Unregisterd animal or registered animal not wearing a valid tag.
 - (a) Thirty dollars (\$30) for the first offense,
 - (b) Forty dollars (\$40) for the second offense, and

(c) One hundred dollars (\$100) for the third offense plus an additional fifty dollars (\$50) for every subsequent offense. (Ord. #15-99, Aug. 1999)

10-112. <u>Failure to reclaim animal at large</u>. Any owner who has been notified that his or her animal has been impounded and who refuses to pay the impounding fee set forth in § 10-111 shall be subject to a penalty for failure to reclaim the animal. In determining the number of failures to reclaim, the entire record of the owner with regard to every animal owned will be considered. The penalty shall be as follows:

- (1) First failure to reclaim, fifty dollars (\$50).
- (2) Second failure to reclaim, one hundred dollars (\$100).

(3) Third and subsequent failures to reclaim, two hundred and fifty dollars (\$250). (Ord. #15-99, Aug. 1999)

10-113. <u>Authority to kill animals at large</u>. If any animal found at large in violation of this chapter cannot be safely taken up and impounded and either poses a threat to a person or the public or is seriously injured, such animal may be killed by any police officer or animal control officer. Nothing in this section shall be construed to prevent a police officer or animal control officer from killing an animal in self-defense. (Ord. #15-99, Aug. 1999)

10-114. <u>Keeping or possessing livestock</u>. It is unlawful for any person to keep or possess livestock, including pigs and goats, within the city. This section is inapplicable to areas zoned for livestock, provided the owner complies with the conditions set forth in the zoning ordinance. (Ord. #15-99, Aug. 1999)

10-115. <u>Possession of wild animals, prohibited</u>. It is unlawful for any person to own or possess a wild animal within the city limits. (Ord. #15-99, Aug. 1999)

10-116. <u>Condition for sales of certain animals</u>. (1) Fowl or rabbits younger than eight (8) weeks of age may not be sold in quantities of less than twenty-five (25) to a single purchaser.

(2) No person shall give away any live animal, including fish, reptile or bird, as a prize for, or as an inducement to enter, any contest, game, or other competition, or as an inducement to enter a place of amusement; or offer such animal as an incentive to enter any business agreement whereby the offer was for the purpose of attracting trade.

(3) No person shall sell, offer for sale or give away any dog or cat under six (6) weeks of age. (Ord. #15-99, Aug. 1999)

10-117. <u>Dyed baby fowl and rabbits</u>. (1) It is unlawful for any person to:

(a) Sell, offer for sale, barter or give away baby chickens, ducklings or goslings of any age, or rabbits under two (2) months of age, as pets, toys, premiums or novelties, if such fowl or rabbits have been colored, dyed, stained or otherwise had their natural color changed; or

(b) Bring or transport such fowl or rabbits into the city for such purposes.

(2) This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl or rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising or laboratory testing.

(3) Each such baby chicken, duckling, other fowl or rabbit sold, offered for sale, bartered or given away in violation of this section constitutes a separate offense. (Ord. #15-99, Aug. 1999, as replaced by Ord. #17-06, Sept. 2006)

10-118. <u>Improper care of animals prohibited</u>. No person owning or keeping an animal shall fail to provide it with the minimum care, nor shall such person keep an animal under unsanitary conditions or in an enclosure that is overcrowded, unclean, or unhealthy.

Except for emergencies or circumstances beyond the owner's control, an animal is deprived of minimum care if it is not provided with care sufficient to preserve the health and well-being of the animal considering the species, breed, and type of animal.

Minimum care includes, but is not limited to, the following requirements:

(1) Food of sufficient quantity, quality, and nutrition to allow for normal growth or maintenance of body weight.

(2) Open or adequate access to potable water in sufficient quantity to satisfy the animal's needs. Snow or ice is not an adequate water source.

(3) Access to a barn, doghouse, or other shelter sufficient to protect the animal from the elements. Doghouses and similar shelters shall be made of durable materials with a solid, moisture-proof floor, and must contain clean bedding material consisting of hay, straw, cedar shavings, or the equivalent to provide insulation and protection against cold and dampness.

(4) Veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect, or disease.

An enclosure is overcrowded unless its area is at least the square of the length of the animal in inches (from tip of nose to base of tail) plus six inches (6") for each animal confined therein, and the height must allow for each animal to fully stand upright.

An enclosure is unclean when it contains an excessive amount of animal waste.

An enclosure is unhealthy when its condition is likely to cause illness or injury to the animal. (Ord. #15-99, Aug. 1999, as replaced by Ord. #5-2018, April 2018)

10-119. <u>Abandonment</u>. It shall be unlawful for any person to abandon an animal that is under its ownership or care. If an animal is found abandoned, the animal may be impounded. Abandonment consists of:

(1) Leaving an animal for a period in excess of twenty-four (24) hours without providing for someone to feed, water and check on the animal's condition.

(2) Leaving an animal by a roadside or other area, or

(3) Leaving an animal on either public or private property without the property owner's consent.

Any person convicted of violating this section shall be subject to a penalty of not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500). Each animal abandoned is a separate violation. (Ord. #15-99, Aug. 1999)

Change 1, December 18, 2006

10-120. <u>**Poisoning**</u>. It shall be unlawful for any person, other than a licensed veterinarian or a person under the direction of a veterinarian for humanitarian purposes to:

(1) Administer poison to any animal(s);

(2) Distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any animal; or

(3) Knowingly leave a poisonous substance of any kind or ground glass in any place with the intent to injure an animal or in any location where it may be readily found and eaten by an animal.

The provisions of this section are not applicable to licensed exterminators using poisons as part of a pest control program or to persons using commercial insecticides and rodent baits to control insects and wild rodents. This section is also inapplicable to any measures taken under § 10-104 by the city manager. (Ord. #15-99, Aug. 1999)

10-121. <u>Noisy animals prohibited</u>. (1) No person owning or keeping any animal shall fail to prevent such animal from disturbing the peace of any other person by loud and persistent or loud and habitual barking, yelping, howling, braying, whinnying, crowing, calling or making any other noise, whether the animal is on or off the owner's premises.

(2) No person shall be charged with violating this section unless a written warning was given to the owner within the twelve (12) months preceding the alleged date of violation. Such warning is sufficient if it recites subsection (1) and states that a complaint was received. A warning is given if personally given to the owner or mailed first class to the owner.

(3) No person shall be convicted of violating this section unless two (2) or more witnesses testify to the noise, or unless there is other evidence corroborating the testimony of a single witness. (Ord. #15-99, Aug. 1999)

10-122. <u>Animal on school grounds</u>. It shall be unlawful for any owner, or any other person having an animal under his or her care or control to take, allow, or let such animal upon the grounds, property, or premises of any public school operated by the Oak Ridge School System unless such person shall first have obtained written permission from the superintendent of schools or the superintendent's designee. This section is not applicable to any law enforcement animal. (Ord. #15-99, Aug. 1999)

10-123. <u>Citation procedure for violations of this chapter</u>.</u> Whenever an animal control officer determines there has been a violation of any of the provisions in this chapter, in lieu of obtaining a warrant for the arrest of the offender, the animal control officer may prepare in quadruplicate a written notice to appear in city court containing the name and address of such person, the offense charged, and the time when such person shall appear in city court. The time specified for appearance shall not be less than five (5) days from the Change 1, December 18, 2006

date of the issuance to appear, unless the person cited agrees to a shorter time period. If the person so demands, the appearance in court shall be the first session of court following the citation. The cited person shall sign one (1) copy

of the notice to appear. Signing the notice shall constitute the cited person's promise to appear on the date specified in the notice. One copy of the notice shall be delivered to the cited person. (Ord. #15-99, Aug. 1999)

10-124. Failure to obey animal control citation. No person shall violate his or her written promise to appear provided for in § 10-123, regardless of the disposition of the charge for which the citation was originally issued. (Ord. #15-99, Aug. 1999)

10-125. Acceptance of guilty pleas and penalties for animal control violations. The city court clerk is hereby authorized to accept pleas of guilty for violations of this chapter, to accept designated penalties in connection with such pleas, to issue receipts therefor, and to appear for such person in court for the purpose of entering pleas of guilty, all in accordance with such procedures as may be established by the judge of the city court. Such penalties shall be accepted upon the entry of any plea of guilty before the court clerk. The amount of such penalty to be accepted shall be so designated by rule of court promulgated by the judge of the city court; provided that no such penalty may be accepted for a sum less than the minimum penalty imposed by any section of this chapter for such offense. Any person given a citation for a violation of any provision of this chapter may post the penalty appropriate thereto, and notify the clerk of the city court that he or she will not appear for trial in which case the matter may be entered on the docket for trial. There shall be no cost assessed in cases in which a plea of guilty is entered under this section. (Ord. #15-99, Aug. 1999)

10-126. <u>Collection and disposition of fees</u>. All fees required by this chapter shall be collected as required and shall be deposited in the general fund. (Ord. #15-99, Aug. 1999)

10-127. <u>Penalties</u>. Any person violating any provision of this chapter, unless the penalty is specified in the section, shall be punished by a penalty not to exceed five hundred dollars (\$500). Each day a violation exists shall be deemed a separate violation. (Ord. #15-99, Aug. 1999)

RABIES CONTROL

SECTION

- 10-201. Vaccination of animals.
- 10-202. Apprehension and disposition of rabid animals and suspects.
- 10-203. Quarantine of animals inflicting, or suspected of inflicting, a bite or suspected of being rabid.
- 10-204. Quarantine of animals in contact with rabid animal.
- 10-205. Report required when person is bitten by an animal.
- 10-206. Veterinarians to report result of examination of animal that has bitten person.
- 10-207. Forwarding of head to state health department.
- 10-208. Surrender and examination of carcasses of animals.

10-201. <u>Vaccination of animals</u>. (1) It shall be unlawful for any person to own, keep, or harbor any dog or cat, or other animal that requires vaccination for rabies, which has not been vaccinated against rabies as required by state law.

(2) Evidence of such vaccination shall consist of a certificate bearing the owner's name and address, number of the vaccination tag issued, date of vaccination, date the animal shall be re-vaccinated, description and sex of the animal vaccinated, type and lot number of the vaccine administered and the signature of the person administering the vaccine.

(3) The certificate shall be prepared in triplicate, the original to be given to the owner, the first copy filed in the office of the local health department, and the second copy retained by the person administering the vaccine.

(4) All vaccinations shall be administered by or under the supervision of a veterinarian licensed by the State Board of Veterinary Medical Examiners to practice veterinary medicine in the State of Tennessee. (Ord. #15-99, Aug. 1999)

10-202. <u>Apprehension and disposition of rabid animals and</u> <u>suspects</u>. Any animal capable of being infected with rabies which is rabid or believed to be rabid shall be immediately reported to the police department. Such animal shall be taken up and impounded if this can be accomplished with safety. If it is necessary for the city to destroy the animal to prevent further biting or for the safety of the community, every effort shall be made to avoid damage to the brain. (Ord. #15-99, Aug. 1999)

10-203. Quarantine of animals inflicting, or suspected of inflicting a bite or suspected of being rabid. (1) Any animal that is suspected of or

has bitten a human being, or is suspected of being infected with rabies, shall be quarantined at a facility designated by the city manager for no less than ten (10) days from the time the bite or scratch occurred. The owner shall be responsible for all quarantine fees and costs.

(2) No animal that is suspected of or has bitten a human being or is suspected of being infected by rabies shall be killed or destroyed or removed from the city unless authorized by the city manager.

(3) Only animals that appear to be without rabies shall be released from quarantine or impoundment.

(4) No person shall hide, kill, conceal or aid or assist in hiding, killing, or concealing any animal suspected of being infected with rabies or shall conceal or permit the same to be removed from the city for the purpose of preventing the quarantine.

(5) There shall be placed in a conspicuous place in plain view of all entrances to the place of quarantine a placard on which shall be printed, in letters not less than two (2) inches high, the words "Rabies--Quarantine." The place of quarantine shall be cleaned and disinfected to the satisfaction of the city manager. (Ord. #15-99, Aug. 1999)

10-204. Quarantine of animals in contact with rabid animal. All animals capable of being infected with rabies that have come in contact with a rabid animal shall be quarantined and vaccinated as follows:

(1) If no vaccination for rabies has been given within the previous twelve (12) months, the animal shall be vaccinated and quarantined for ninety (90) days.

(2) If the animal has been vaccinated for rabies within the previous twelve (12) months, the animal shall be re-vaccinated and quarantined for thirty (30) days. (Ord. #15-99, Aug. 1999)

10-205. <u>Report required when person is bitten by an animal</u>. Whenever a person is bitten by an animal capable of being infected with rabies, prompt report of such bite shall be made to the police department. Such report shall be made by any physician attending the person bitten, or, if such person is at a hospital, the report shall be made by the person in charge. Such report shall contain all information required by the city manager. When a physician was not consulted or the person not taken to the hospital, the report shall be made by the person with knowledge of the facts. (Ord. #15-99, Aug. 1999)</u>

10-206. <u>Veterinarians to report result of examination of animal</u> <u>that has bitten person</u>. Whenever a veterinarian is called upon to examine an animal capable of transmitting rabies that has bitten a person, the veterinarian shall promptly report the results of the examination to the city manager. (Ord. #15-99, Aug. 1999) **10-207.** Forwarding of head to state health department. When an animal under quarantine has been diagnosed as being rabid, or suspected by a licensed veterinarian as being rabid, and dies while under quarantine, the division of animal control shall send the head of such animal to the state health department for pathological examination. (Ord. #15-99, Aug. 1999)

10-208. <u>Surrender and examination of carcasses of animals</u>. The carcass of any dead animal found within the city shall, upon demand, be surrendered to the division of animal control for examination if, in the opinion of the city manager, such examination is necessary or advisable. (Ord. #15-99, Aug. 1999)

VICIOUS DOGS

SECTION

- 10-301. Definition.
- 10-302. Procedure for declaring a dog vicious.
- 10-303. Notification of vicious dog declaration.
- 10-304. Hearing on vicious dog declaration.
- 10-305. Appeal from vicious dog declaration.
- 10-306. Requirements for keeping a vicious dog.
- 10-307. Impoundment.
- 10-308. Notice of impoundment.
- 10-309. Hearing on impoundment and/or destruction.
- 10-310. Exceptions.
- 10-311. Change of status.
- 10-312. Change of ownership.
- 10-313. Dog fighting, spectator.
- 10-314. Right of entry.

10-301. Definition. "Vicious dog" means:

(1) Any dog with a known propensity, tendency, or disposition to attack without provocation, to cause serious injury, or to otherwise threaten the safety of human beings or domestic animals; or

(2) Any dog which, without provocation, has attacked or bitten a human being or domestic animal; or

(3) Any dog owned or harbored primarily, or in part, for the purpose of dog fighting, or any dog trained for dog fighting. (Ord. #15-99, Aug. 1999)

10-302. <u>Procedure for declaring a dog vicious</u>. (1) An animal control officer, police officer or any adult person may request under oath that a dog be classified as vicious as defined in § 10-301 by submitting a sworn, written complaint. Upon receipt of such complaint, the city manager shall notify the owner of the dog, in writing, that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(2) At the conclusion of an investigation, the city manager may:

(a) Determine that the dog is not vicious and, if the dog is impounded, waive any impoundment fees incurred and release the dog to its owner; or

(b) Determine that the dog is vicious and order the owner to comply with the requirements for keeping a vicious dog set forth in § 10-306, and if the dog is impounded, release the dog to its owner after the owner has paid all fees incurred for impoundment. If all impoundment fees have not been paid within ten (10) days after a final

determination that the dog is vicious, the city manager may cause the dog to be humanely destroyed.

(3) Nothing in this chapter shall be construed to require a dog to be declared vicious prior to taking action under state law. (Ord. #15-99, Aug. 1999)

10-303. <u>Notification of vicious dog declaration</u>. (1) Within five (5) days after declaring a dog vicious, the city manager shall notify the owner by certified mail or personal delivery of the dog's designation as a vicious dog and of the requirements for keeping a vicious dog as set forth in § 10-306. The city manager shall also notify the division of animal control of the designation of any dog as a vicious dog.

(2) The notice shall inform the owner that he or she may request, in writing, a hearing to contest the city manager's finding and designation within five (5) days after delivery of the vicious dog declaration notice. (Ord. #15-99, Aug. 1999)

10-304. <u>Hearing on vicious dog declaration</u>. (1) The city manager shall hold a hearing within ten (10) days after receiving the owner's written request for such a hearing. The city manager shall provide notice of the date, time and location of the hearing to the owner by certified mail or personal delivery and to the complainant by regular mail.

(2) At a hearing, all interested parties shall be given the opportunity to present evidence on the issue of the dog's viciousness. Criteria to be considered in the hearing shall include but not be limited to the following:

- (a) Provocation,
- (b) Severity of attack or injury to a person or animal,
- (c) Previous aggressive history of the dog,
- (d) Observable behavior of the dog,
- (e) Site and circumstances of the incident, and
- (f) Statements from interested parties.

(3) A determination at the hearing that the dog is in fact a vicious dog as defined in § 10-301 shall subject the dog and its owner to the requirements of this chapter.

(4) Failure of the owner to request a hearing shall result in the dog being finally declared a vicious dog and shall subject the dog and its owner to the requirements of this chapter. (Ord. #15-99, Aug. 1999)

10-305. <u>Appeal from vicious dog declaration</u>. If the city manager determines that a dog is vicious at the conclusion of a hearing conducted under § 10-304, that decision shall be final unless the owner of the dog appeals the decision to circuit court. (Ord. #15-99, Aug. 1999)

10-306. <u>Requirements for keeping a vicious dog</u>. The owner of a vicious dog shall be subject to the following requirements:

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(1) <u>Confinement</u>. All vicious dogs shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog from escaping. The pen or structure shall have minimum dimensions of five (5) feet in width and length by ten (10) feet in height and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two (2) feet. All pens or structures must be kept clean and sanitary. The enclosure must provide shelter and protection from the elements and must provide adequate exercise room, light and ventilation. Under no circumstances may a vicious dog be confined by a fence, whether it is electronic, a similar underground wire system, or otherwise. Under no circumstances may more than one (1) dog be kept in any one pen or structure.

(2) <u>Indoor confinement</u>. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit the structure on its own volition. In addition, no vicious dog may be kept in a house or structure when open windows or screen doors are the only obstacle preventing the dog from exiting the house or structure.

(3) <u>Number of vicious dogs per residence</u>. Only one (1) dog that has been declared vicious may be owned per residence.

(4) <u>Leash and muzzle</u>. The owner of a vicious dog shall not allow the dog to go outside its kennel, pen, or structure unless the dog is muzzled, under the physical control of a capable adult, and restrained by a leash not more than four (4) feet in length, which shall be bright yellow in color, and of sufficient strength to control the dog. The muzzle must not cause injury to the dog or interfere with its vision or respiration, but must prevent the dog from biting any human being or animal.

(5) <u>Signs</u>. The owner of a vicious dog shall display, in a prominent place on the owner's premises, a clearly visible warning sign reading "Beware of Vicious Dog." The sign shall be readable from the driveway entrance or street. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog. Similar signs shall be posted on the dog's kennel, pen or structure. The sign shall be at least twelve (12) inches by twelve (12) inches in size.

(6) <u>Insurance</u>. The owner of a vicious dog shall obtain public liability insurance of at least one hundred thousand dollars (\$100,000), per dog, insuring the owner for any damage or personal injury that may be caused by the owner's vicious dog. The policy shall contain a provision requiring the city to be notified immediately by the agent issuing the policy in the event that the policy is cancelled, terminated or expired. The owner must provide proof of the insurance to the division of animal control. If there is a lapse in insurance or a cancellation, the owner shall be in violation of this title.

(7) <u>Compliance; consequences for failure to comply</u>. (a) For the safety and welfare of the general public, an owner of a vicious dog must comply

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with the requirements for keeping a vicious dog within the following timeframe:

(i) <u>Immediate</u>. Immediately upon the owner's receipt of the declaration notice, the owner shall comply with the confinement requirements set forth in § 10-306(1) and (2). The owner may continue to keep the vicious dog confined indoors or may, at the owner's option, confine the vicious dog outdoors provided the requirements of § 10-306(1) are met at all times while the vicious dog is confined outdoors.

(ii) <u>Within twenty-four (24) hours</u>. The requirements set forth in § 10-306(4) and (5) must be met within twenty-four (24) hours of the owner's receipt of the declaration notice.

(iii) <u>Within five (5) days</u>. The requirement set forth in § 10-306(3) and (6) must be met within five (5) days of the owner's receipt of the declaration notice.

(iv) Should an owner of a vicious dog choose to contest the city manager's finding and designation of his or her dog as vicious and said owner has not complied with the requirements of this section within the allotted timeframe, the vicious dog shall be delivered to the animal shelter for safe-keeping until the contest hearing is heard. The owner shall be responsible for any and all boarding fees for the vicious dog needs as determined by staff the animal control officers or the animal shelter's veterinarian, and for any and all damage to city property caused by the vicious dog.

(b) Failure of an owner to comply with any of the requirements for keeping a vicious dog, or failure of an owner to continue compliance with said requirements, shall result in the vicious dog being apprehended by the division of animal control or the police department. Said vicious dog shall remain in the custody and control of the division of animal control until such time as the owner can prove, to the city's satisfaction, compliance with the requirements for keeping a vicious dog or until the conclusion of five (5) working days, whichever occurs first. If the vicious dog remains impounded at the conclusion of five (5) working days, said vicious dog shall become the property of the city and may be destroyed. (Ord. #15-99, Aug. 1999, as amended by Ord. #20-02, Nov. 2002)

10-307. <u>**Impoundment**</u>. When a dog has severely attacked a human being or domestic animal, and a police officer or animal control officer witnessed the attack or witnessed the injuries caused by the attack, such dog shall be impounded. (Ord. #15-99, Aug. 1999)

10-308. <u>Notice of impoundment</u>. Within five (5) days of impoundment of a dog under § 10-307, the division of animal control shall notify the dog's owner, if known, in writing of the impoundment. (Ord. #15-99, Aug. 1999)

10-309. <u>Hearing on impoundment and/or 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 before the city manager to contest the impoundment.

(2) Upon request by the owner for a hearing pursuant to subsection (1), a hearing shall be held within ten (10) days after the request for a hearing. Notice of the date, time and location of the hearing shall be provided by certified mail or delivered personally to the dog's owner.

(3) The city manager shall issue a decision after the close of the hearing and shall notify the owner in writing of the decision.

(4) After considering all of the relevant evidence, the city manager may request the district attorney general to petition the circuit court to order the destruction of the impounded dog, or may release the dog to its owner conditional on the owner complying with the requirements for keeping a vicious dog as set forth in § 10-306.

(5) If state law changes and permits a municipality to order the destruction of a dog as a result of an attack on a person or other animal, then the city manager shall automatically have the power to order the destruction of said dog under subsection (4) without going through circuit court. (Ord. #15-99, Aug. 1999)

10-310. Exceptions. (1) This chapter shall not apply to any dog used by the police department or law enforcement agencies.

(2) No dog shall be declared vicious for injury or damage sustained by a person who was entering the owner's property to commit a burglary, robbery, assault, willful trespass or other tort or crime.

(3) No dog shall be declared vicious for injury or damage sustained by a person who was teasing, tormenting, abusing, assaulting, or otherwise provoking the dog.

(4) No dog shall be declared vicious solely because it bites or attacks:

(a) A person assaulting its owner, excluding a police officer attempting to subdue or effect the arrest of a subject; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this title. (Ord. #15-99, Aug. 1999)

10-311. <u>Change of status</u>. The owner of a vicious dog shall notify the division of animal control:

(1) Immediately if the vicious dog is unconfined and on the loose, or has attacked a human being or domestic animal without provocation;

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(2) If the owner has moved outside of the city limits and shall give the owner's new address; or

(3) If the dog has died. (Ord. #15-99, Aug. 1999)

10-312. <u>Change of ownership</u>. (1) If the owner of a vicious dog sells, gives away, or otherwise transfers custody of the vicious dog, the owner shall, within three (3) days, provide the division of animal control with the name, address, and telephone number of the new owner.

(2) The previous owner shall notify the new owner of the dog's designation as a vicious dog and, if the new owner resides within the city limits, of the requirements and conditions for keeping a vicious dog set forth in § 10-306.

(3) If the new owner resides within the city limits, the new owner must obtain the required enclosure prior to the acquisition of the vicious dog or confine the dog indoors.

(4) The new owner must fully comply with the provisions of this chapter, including obtaining liability insurance, prior to the acquisition of the vicious dog. (Ord. #15-99, Aug. 1999)

10-313. <u>Dog fighting, spectator</u>. No person shall knowingly be a spectator at a dog fight. (Ord. #15-99, Aug. 1999, as replaced by Ord. #17-06, Sept. 2006)

10-314. <u>**Right of entry**</u>. It shall be the duty and authority of the chief of police or the chief of police's authorized representative to enter onto any premises, public or private, to make inspections for the purpose of carrying out the provisions of this title. (Ord. #15-99, Aug. 1999)

DOG PARKS

SECTION

- 10-401. Dog park, off-leash area.
- 10-402. Requirements.
- 10-403. Rules.
- 10-404. Violations.
- 10-405. Implied consent.
- 10-406. Responsibility and liability.

10-401. <u>Dog park, off-leash area</u>. The city has the authority to designate areas as dog parks. Dogs are permitted to be off-leash within the confines of any city-owned dog park area without being in violation of the city's leash (animal at large) law provided the provisions of this chapter are followed at all times. (as added by Ord. #06-2013, July 2013)

10-402. <u>**Requirements**</u>. It is unlawful for any person to fail to follow the requirements for use of the dog park as set forth below and each and every violation per dog may be treated as a separate offense:

(1) A person shall not bring any animal into the dog park other than a dog. This prohibition is not applicable to a service animal in performance of, or in training for, its duties to provide assistance to a person with disabilities.

(2) A person having charge, custody, care or control of a dog shall not bring a dog to the dog park that has been declared vicious by any governmental entity.

(3) A person having charge, custody, care or control of a dog shall not bring a dog in heat into the dog park.

(4) A person having charge, custody, care or control of a dog shall only bring a dog(s) to the dog park if the dog is healthy and properly vaccinated.

(5) Current proof of rabies vaccination (ex. rabies tag) must be attached to the vaccinated dog's collar at all times, and may be inspected by any city employee or city dog park volunteer at any time while entering, inside, or exiting the dog park.

(6) If the dog park has a designated area for small dogs, no dogs over twenty (20) pounds may be in the small dog area.

(7) All dogs must be leashed when entering and exiting the dog park, and the person having charge, custody, care or control of the dog must keep the leash in their possession at all times inside the dog park.

(8) The person having charge, custody, care or control of the dog must promptly remove and dispose of any waste deposited by their dog. Trash receptacles will be available within the dog park. Change 5, June 11, 2018

(9) The person having charge, custody, care or control of the dog must repair any damage caused by their dog including filling in holes dug by the dog.

(10) The person having charge, custody, care of control of the dog must immediately remove the dog if the dog shows signs of aggression toward people or other dogs within the dog park.

(11) Weapons are not permitted within the dog park.

(12) Dogs may not be left in the dog park unattended. (as added by Ord. #06-2013, July 2013)

10-403. <u>**Rules.**</u> In addition to the requirements set forth in this chapter, the city has the authority to establish and post rules and regulations pertaining to use of the dog park. Dog park rules will be posted at the main entrance to the dog park and on the city's website and must be followed. (as added by Ord. #06-2013, July 2013)

10-404. <u>Violations</u>. A person in violation of the requirements set forth in this chapter and/or the posted rules for the dog park may be banned from the dog park for a designated or indefinite time period. In addition, a person in violation of the requirements of this chapter may be cited for the violation(s) in city court. (as added by Ord. #06-2013, July 2013)

10-405. <u>Implied consent</u>. Use of the dog park shall constitute implied consent of the owner and any person have charge, custody, care or control of the dog to strictly follow the requirements and rules set forth in this chapter, and shall constitute a waiver of liability to the city, its officials, officers, and employees, an assumption of all risks, and an agreement and undertaking to protect, indemnify, defend and hold harmless the city, its officials, officers, and employees for any injury or damage to persons or property during any time that the dog is in the dog park. (as added by Ord. #06-2013, July 2013)

10-406. <u>**Responsibility and liability.</u>** The provisions of this chapter do not relieve the owner or person have charge, custody, care, or control of a dog from the responsibility to maintain proper control over the dog nor shall the provisions of this chapter be construed to relieve such person from any liability for any damages arising out of his or her use of the dog park. (as added by Ord. #06-2013, July 2013)</u>

KEEPING OF HENS

SECTION

- 10-501. Domesticated female chickens (hens); generally.
- 10-502. Permit required.
- 10-503. Fees.
- 10-504. Number and type allowed.
- 10-505. Slaughter prohibited.
- 10-506. Fenced enclosures and henhouses.
- 10-507. Food storage and removal.
- 10-508. Application for permit.
- 10-509. Approval of permit.
- 10-510. Denial, suspension, or revocation of permit.
- 10-511. Other provisions.
- 10-512. Penalty.
- 10-513. Severability.

10-501. <u>Domesticated female chickens (hens); generally</u>. Notwithstanding the provisions of city code § 10-114, keeping or possessing of livestock, the keeping or possessing of female domesticated chickens (hereinafter referred to as "hens") in residential areas (except for RG-1) is governed by this chapter.

The purpose of this chapter is to provide standards for the keeping of hens on residentially zoned property. It is intended to enable residents to keep or possess a small number of hens while limiting the potential adverse impacts on the surrounding property owners and neighborhood. The city recognizes that adverse neighborhood impacts may result from the keeping of hens as a result of noise; odor; unsanitary animal living conditions; unsanitary waste storage and removal; the attraction of predators, rodents, or parasites; and non-confined animals leaving the owner's property. This chapter is intended to create permitting standards and requirements that ensure that hens do not adversely impact the neighborhood surrounding the property on which the hens are kept. The provisions of this chapter are not applicable to property zoned as RG-1, Residential, Open Space and Reserved Districts, under the city's zoning ordinance. (as added by Ord. #6-2016, July 2016)

10-502. <u>**Permit required.</u>** An annual permit is required for the keeping of hens. Additionally, a building permit is required for the construction of a henhouse and pen.</u>

(1) The annual permit fee to keep hens is personal to the permittee and may not be assigned. In addition, the permit authorizes the keeping of hens only upon the property described in the permit. The permittee must occupy the residence on the property where the hens are to be kept as the permittee's personal, primary residence. An applicant for a permit must either own the property or have written permission from the property owner to be eligible for a permit. If the property is governed by a homeowner's association, the applicant must also provide written permission of the homeowner's association to be eligible for a permit. Only one (1) permit is allowed per permittee and only one (1) permit is allowed per property. In the event the permittee is absent from the property for longer than thirty (30) days, the permit automatically shall terminate and become void. The issuance of a permit does not create a vested right to renewal of the permit beyond the stated term thereof.

(2) The first permit year shall extend from the date of issuance through December 31, 2017. Thereafter the permit year shall be January 1 through December 31. (as added by Ord. #6-2016, July 2016)

10-503. <u>Fees.</u> The fee for an annual permit to keep hens is twenty-five dollars (\$25.00). In addition, a twenty-five dollar (\$25.00) fee shall be required for the building permit for the construction of a henhouse and fenced enclosure. § 10-404, number and type allowed.

(1) Up to six (6) hens may be allowed. No roosters shall be allowed. The provisions of this chapter apply regardless of how many dwelling units are located on the property. In the case of multi-family residential complexes without individually owned backyards, the maximum number of hens allowed is six (6) per complex.

(2) Only hens are allowed. There is no restriction on domestic chicken breeds; however, fowl and poultry other than hens are not allowed. (as added by Ord. #6-2016, July 2016)

10-505. <u>Slaughter prohibited</u>. The slaughtering of chickens is prohibited. (as added by Ord. #6-2016, July 2016)

10-506. <u>Fenced enclosures and henhouses</u>. (1) Hens must be kept in a fenced enclosure at all times. The fenced enclosure must be either (a) covered, or (b) at least forty-two inches (42") high. In the event the fenced enclosure is not covered, all hens must be wing-clipped to prevent escape. Hens shall be secured within the henhouse during non-daylight hours.

(2) In addition to the fenced enclosure, hens shall be provided with a covered, predator resistant henhouse.

(3) A minimum of two (2) square feet per hen shall be provided for henhouses and a minimum of six (6) square feet per hen for fenced enclosures.

(4) Fenced enclosures and henhouses must be properly ventilated, clean, dry, and odor-free, and kept in a neat and sanitary condition at all times in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor, or other adverse impact.

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(5) The henhouse and fenced enclosure must provide adequate ventilation and adequate sun and shade, and must be constructed in a manner to resist access by rodents, wild birds, and predators, including dogs and cats.

(6) Henhouses shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator-resistant and bird-resistant wire of less than one inch (1") openings.

(7) The materials used in making the henhouse and fence shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The henhouse shall be well-maintained.

(8) Henhouses shall be located and constructed in compliance with the city's zoning ordinance pertaining to accessory buildings or structures.

(9) Neither the henhouse nor the fenced enclosure may be located less than ten feet (10') from any abutting property line. This distance requirement is not appealable to the Board of Zoning Appeals (BZA) for a variance.

(10) Henhouses and the fenced enclosures shall not be permitted in front yards. (as added by Ord. #6-2016, July 2016)

10-507. <u>Food storage and removal</u>. All stored food for the hens must be kept either indoors or in a weather-resistant container designed to prevent access by animals. Uneaten food shall be removed daily. (as added by Ord. #6-2016, July 2016)

10-508. <u>Application for permit</u>. Every applicant for a permit to keep hens shall:

(1) Complete and file an application on a form prescribed by the animal control division of the police department.

(2) Deposit the prescribed permit fee with the animal control division of the police department at the time the application is filed. Any material misstatement or omission shall be grounds for denial, suspension, or revocation of the permit. (as added by Ord. #6-2016, July 2016)

10-509. <u>Approval of permit</u>. The animal control division of the police department shall issue a permit if the applicant has demonstrated compliance with the criteria and standards of this chapter. (as added by Ord. #6-2016, July 2016)

10-510. <u>Denial, suspension, or revocation of permit</u>. The animal control division of the police department shall deny a permit if the applicant has not demonstrated compliance with all provisions of this chapter. A permit to keep hens may be suspended or revoked by the animal control division of the police department where there is a risk to public health or safety or for any

violation of or failure to comply with any of the provisions of this chapter or with the provisions of any other applicable ordinance or law. Any denial, suspension, or revocation of a permit shall be in writing and shall include notification of the right and procedure for appeal to the city manager. (as added by Ord. #6-2016, July 2016)

10-511. <u>Other provisions</u>. (1) In addition to the standards set forth in this chapter, the permittee must follow all other applicable rules for the keeping of animals included in the city code.

(2) The provisions of this chapter do not supersede any deed restrictions. (as added by Ord. #6-2016, July 2016)

10-512. <u>Penalty</u>. In addition to any other enforcement action which the city may take, violation of any provision of this chapter shall be a civil violation and a fine not to exceed fifty dollars (\$50.00) may be imposed. Each day that a violation continues will be treated as a separate offense. (as added by Ord. #6-2016, July 2016)

10-513. <u>Severability</u>. In the event that any portion of this chapter shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other portion of this section. (as added by Ord. #6-2016, July 2016)

TITLE 11

MUNICIPAL OFFENSES

CHAPTER

- 1. MISCELLANEOUS.
- 2. ALCOHOL, DRUGS, ETC.
- 3. OFFENSES AGAINST THE PEACE AND QUIET.
- 4. [DELETED.]
- 5. OBSCENITY.
- 6. [DELETED.]
- 7. OFFENSES AGAINST CHILDREN.
- 8. WEAPONS.
- 9. ADVERTISING.
- 10. HANDBILLS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 11-101. Arrest without warrant; issuance of citation; failure to appear.
- 11-102. Resisting arrest or interfering with police officer..
- 11-103. Imitating emergency vehicles.
- 11-104. [Deleted.]
- 11-105. Discrimination in sale or rental of dwelling units.
- 11-106. Discrimination in places of public accommodation.
- 11-107. Shoplifting.
- 11-108. False registration at hotel, motel, etc.
- 11-109. Trespass; failure to leave premises of another after notice.
- 11-110. Loitering on commercial and business premises prohibited.
- 11-111. [Deleted.]
- 11-112. Unlawful possession of traffic control devices.
- 11-113. Disorderly conduct at funerals.

11-101. <u>Arrest without warrant; issuance of citation; failure to</u> <u>appear</u>

(1) A city police officer shall arrest and detain a person found violating a law of this state or an ordinance of this city until a warrant can be obtained in accordance with the laws of this state, provided, however, a police officer who has arrested a person for the violation of an ordinance of this city committed in his or her presence or who has taken custody of a person arrested by a private person for the commission of a violation of city ordinance, shall, in lieu of the continued custody, and taking the arrested person before a magistrate, issue such person a citation to appear in city court provided, however, the release on citation shall be optional for persons arrested for shoplifting, and provided further no citation shall be issued under this section if:

(a) The person arrested requires medical care or examination or is unable to care for himself or herself;

(b) There is a reasonable likelihood that the offense would continue or resume or that persons or property would be endangered by the arrested person;

(c) The person cannot or will not offer satisfactory evidence of identity;

(d) The prosecution of the offense for which the person was arrested or of another offense would be jeopardized;

(e) A reasonable likelihood exists that the arrested person will fail to appear in court;

(f) The person arrested is so intoxicated he or she could be a danger to himself or herself or to others;

(g) There are one or more outstanding warrants for the person; or

(h) The person demands to be taken immediately before a magistrate or refuses to sign the citation.

(2) A city police officer at the scene of a traffic accident may issue a written traffic citation to the driver or drivers of any vehicles involved in such accident when, based upon personal investigation, the officer has reasonable and probable grounds to believe that such person or persons have committed an offense under the provisions of title 15 of this code.

(3) A citation issued under this section shall demand the person cited to appear in court at a stated time, and it shall state the name and address of the person cited, the name of the issuing officer and the offense charged. Unless the person cited requests an earlier date, the time specified on the citation to appear shall be as fixed by the arresting officer. The citation shall give notice to the person cited that his or her failure to appear as ordered is punishable as contempt of court. The citation shall be executed in triplicate, the original to be delivered to the court specified therein, one (1) copy to be given to the person cited and one (1) copy to be retained by the officer issuing the citation. The original citation delivered to the court shall be sworn to by the issuing officer before a magistrate or official lawfully assigned such duty by a magistrate or before a notary public. The person cited shall signify his or her acceptance of the citation and his or her agreement to appear in court as directed by signing the citation.

(4) Whenever a citation has been prepared, accepted and the original citation delivered to the court as provided herein, the original citation delivered to the court shall constitute a complaint to which the person cited must answer,

and the officer issuing the citation shall not be required to file any other affidavit of complaint with the court.

(5) Prior to the time set forth the person to appear in court to answer the charge, the person cited may elect not to contest the charge and may, in lieu of appearance in court, submit the fine and cost to the clerk of the court. Such fine and cost shall be in an amount as fixed by rule of the court promulgated by the judge of the city court. The submission to a fine shall not otherwise be exclusive of any other method or procedure prescribed by law for disposition of a citation which may be issued for a violation of any provision of this code.

(6) Any other provision of this code to the contrary notwithstanding, if the person cited or released on a citation for the violation of any city ordinance has not paid the citation upon submission to fine and cost as provided in this section, and the person fails to appear in court at the time specified on such citation or at such later date as may be fixed by the court, the court may issue a warrant or attachment for the arrest of such person, or the court may declare a judgment of forfeiture against such person in any amount not to exceed the maximum fine and cost prescribed by law for such offense; and such judgment may be collected as otherwise provided by law.

(7) It shall be unlawful for any person to intentionally, knowingly or willfully fail to appear in court on the time and date specified on the citation or to knowingly give a false or assumed name regardless of the disposition of the charge upon which he or she was arrested and upon conviction shall be subject to punishment as set forth in § 1-107 of this code. (1969 Code, § 17-1)

11-102. <u>Resisting arrest or interfering with police officer</u>. (1) No person shall knowingly or wilfully oppose or resist a lawful arrest by a police officer by force or violence, nor shall any person offer any force or violence against any police officer subsequent to a lawful arrest by such police officer.

(2) No person shall interfere with any police officer while such officer is attempting to make a lawful arrest or is performing any other duty of his or her office. (1969 Code, § 17-2)

11-103. <u>Imitating emergency vehicles</u>. No person shall use a gong, bell, or siren on the streets of the city making a noise similar to that used by fire engines, police department vehicles or other emergency vehicles intended as a warning to the public to give way to passage of such vehicles in the performance of any public duty or service. (1969 Code, § 17-4)

11-104. [Deleted.] (1969 Code, § 17-6, as deleted by Ord. #17-06, Sept. 2006)

11-105. Discrimination in sale or rental of dwelling units.

(1) <u>Definitions</u>. For the purpose of this section, the following words and terms shall have the meanings ascribed to them in this section:

(a) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building.

(b) "Family" includes a single individual.

(c) "Person" includes one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

(d) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(2) <u>Prohibited acts</u>. Subject to the exceptions hereinafter set out it shall be unlawful for any person to do any of the following acts:

(a) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, national origin, familial status or disability.

(b) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin, familial status or disability.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, national origin, familial status or disability, or an intention to make any such preference, limitation or discrimination.

(d) To represent to any person because of race, color, religion, national origin, familial status or disability that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, familial status or disability.

(3) <u>Exceptions to subsection (2)</u>. Nothing in the preceding subsection except subparagraph (2)(c) is intended to apply to:

(a) Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three (3) such single-family houses at any one (1) time; provided further, that in the case of the sale of any such single-family house by a private

individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one (1) such sale within any twenty-four-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three (3) such single-family houses at any one (1) time; provided further, the sale or rental of any such single-family house covered by this subsection shall be excepted from the application of subsection only if such house is sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person. Nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or transfer the title. For the purposes of this subsection, a person shall be deemed to be in the business of selling or renting dwellings if:

(i) He or she has, within the preceding twelve (12) months, participated as principal in three (3) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(ii) He or she has, within the preceding twelve (12) months, participated as agent, other than in the sale of his or her own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

(iii) He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five (5) or more families.

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other, if the owner actually maintains and occupies one (1) of such living quarters as his or her residence.

(4) <u>Applicability of section</u>. Nothing in this section shall prohibit a religious organization, association, or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color or national origin. Nor shall anything in this section prohibit a private club not in fact open to the public, which as an incident to its primary purpose

or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(5) <u>Access to business engaging in sales, rentals</u>. It shall be unlawful to deny any person access to or membership or participation in any multiplelisting service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership or participation on account of race, color, religion, or national origin.

(6) <u>Duty of housing board of appeals</u>. The housing board of appeals of the City of Oak Ridge is authorized and directed to undertake such educational and conciliatory activities as in its judgment will further the purposes of this section. It may call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions hereof and the board's suggested means of implementing it. The board shall further endeavor, with the advice of the housing industry and other interested parties, to work out programs of voluntary compliance and may advise appropriate city officials on matters of enforcement. The board shall issue reports on such conferences and consultations as it deems appropriate.

(7) <u>Violations and penalties</u>. Any person convicted of a violation of this section shall be fined not more than fifty dollars (\$50.00) and may be confined to the city workhouse for a period of time not to exceed ninety (90) day. (1969 Code, § 17-7)

11-106. <u>Discrimination in places of public accommodation</u>. (1) It is the public policy of the city that all persons within the jurisdiction of the city shall be entitled to the full and equal accommodations or services of any place of business open to the public.

(2) Within the meaning of this section, a "place of public accommodation" shall include all businesses which serve the general public. It shall include, but not be limited to, barbershops and beauty salons, bars and taprooms, laundries and laundromats, hotels and motels, lunch counters and restaurants, recreation facilities and retail stores.

(3) It shall be unlawful for any person, whether owner, operator, manager or employee, of any place of public accommodation within the city, to deny services or accommodations to any individual solely on the basis of that individual's race, color, ancestry, religion, national origin, familial status or disability, or to permit such a denial by any of his or her employees. (1969 Code, \S 17-8)

11-107. <u>Shoplifting</u>. No person shall wilfully take possession of any goods, wares or merchandise offered for sale by establishments, with the

intention of converting to his or her own use, without paying the purchase price therefor. (1969 Code, § 17-17)

11-108. <u>False registration at hotel, motel, etc</u>. No person shall write or cause to be written or knowingly permit to be written in any registry in any hotel, motel, lodging house, rooming house, or other place whatsoever where transients are accommodated in the city, any other or different name or designation than the true name of the person so registered therein, or the name by which such person is generally known. (1969 Code, § 17-18)

11-109. Trespass; failure to leave premises of another after notice.

(1) It shall be unlawful for any person to enter upon the lands or premises of another, or of the city or school districts, without lawful authority, after having been forbidden so to do by the owner, occupant, person in charge of such premises, or the agent or servant of any of the foregoing; or for any person to remain upon the lands or premises of another, or of the city or school district, without lawful authority, upon being notified to depart therefrom by the owner, occupant, person in charge of such premises, or the agent or servant of any of the foregoing.

(2) Any person violating this section, upon conviction, shall be fined not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) or sentenced to city jail for not more than ninety (90) days, or both such fine and jail sentence in the discretion of the court. (1969 Code, § 17-21)

11-110. Loitering on commercial and business premises prohibited. It shall be unlawful for any person to loiter, linger, congregate, or idly remain upon commercial or business parking areas or premises when not conducting lawful business offered or provided upon such premises if a reasonably visible sign prohibiting loitering has been posted on the premises by the owner thereof. Such a sign located upon the premises shall be presumed to be posted by the owner. The signs posted under this section shall be approved by the city manager as to size, form, and content prior to posting. (1969 Code, § 17-24)

11-111. [Deleted.] (1969 Code, § 17-15, as deleted by Ord. #17-06, Sept. 2006)

11-112. <u>Unlawful possession of traffic control devices</u>.¹ The city may mark traffic-control signs, signals, markers or devices with letters not less than one-fourth inch nor more than three-fourths inch in height by use of a metal stamp, etching or other permanent marking to indicate ownership by the city. Unlawful possession of traffic control sign, signal, marker or device is a violation. (as added by Ord. #21-06, Dec. 2006)

11-113. <u>Disorderly conduct at funerals</u>.² (1) A person commits the offense of interfering with a funeral or burial, funeral home viewing of a deceased person, funeral procession, or funeral or memorial service for a deceased person, if such person acts to obstruct or interfere with such commemorative service by making any utterance, gesture, or display in a manner offensive to the sensibilities of an ordinary person. Picketing, protesting, or demonstrating at a funeral or memorial service shall be deemed offensive to the sensibilities of an ordinary person.

(2) The provisions of this section shall only apply to acts within five hundred (500) feet of a funeral or burial, funeral home viewing of a deceased person, funeral procession, or funeral or memorial service for a deceased person. (as added by Ord. #21-06, Dec. 2006)

¹State law reference <u>Tennessee Code Annotated</u>, § 55-8-184.

²State law reference <u>Tennessee Code Annotated</u>, § 39-17-317.

ALCOHOL, DRUGS, ETC.¹

SECTION

- 11-201. Customer's ability to bring alcoholic beverages into a place of business for personal consumption.
- 11-202. Possession and/or consumption of beer and other alcoholic beverages prohibited on posted private property.

11-201. <u>Customer's ability to bring alcoholic beverages into a</u> <u>place of business for personal consumption</u>. Customers may bring alcoholic beverages into a place of business for their personal consumption only as specified herein. With the consent of the business owner, customers may bring beer or wine for consumption by themselves and their personal guests into a food service establishment that possesses a valid permanent on-premises beer permit or whose management possesses a valid server permit from the Tennessee Alcoholic Beverage Commission. This section shall not be interpreted to provide additional allowances or restrictions on establishments with a Tennessee license for liquor by the drink.

For the purposes of this section, the term "food service establishment" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment and tables, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its patrons and customers; and providing that more than fifty percent (50%) of the gross revenue of the establishment is generated from the serving of food/meals. (1969 Code, § 17-22, as deleted by Ord. #17-06, Sept. 2006, and replaced by Ord. #23-2012, Nov. 2012)

11-202. <u>Possession and/or consumption of beer and other</u> <u>alcoholic beverages prohibited on posted private property</u>. It shall be unlawful for any person to drink, consume, or possess opened cans, bottles, or other containers of beer or other alcoholic beverages upon any private property where the owner has posted a reasonably visible sign on the premises prohibiting such activity. Such a sign located upon the premises shall be

¹Municipal code reference

Sale of alcoholic beverages including beer: title 8.

Change 4, December 10, 2012

presumed to be posted by the owner. The signs posted under this section shall be approved by the city manager as to size, form, and content prior to posting. (1969 Code, § 17-23)

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Breaching the peace.

11-302. Unlawful noises prohibited; exceptions; temporary permits.

11-301. <u>Breaching the peace</u>. (1) It shall be unlawful for any person to disturb the peace of others by striking or fighting another or by any other violent conduct or by conduct calculated to provoke violence or a violation of the law.

(2) No person shall do any act or use any language calculated or intended or tending to incite others to engage in riotous, violent, or disorderly conduct.

(3) No person shall threaten with bodily harm, intimidate by any means, or terrorize another in the pursuit of his or her lawful rights.

(4) No person shall engage in any assembly, marching or demonstration upon any of the streets or public grounds within the city for the purpose of provoking a breach of the peace or inciting disorders.

(5) No person shall intimidate any public officer or official in the discharge of such officer's or official's duties.

(6) No person shall knowingly permit any offense enumerated in this section or upon any premises owned or under the control of such person when it is within the power of such person to prevent or discontinue such prohibited acts or conduct. (1969 Code, § 17-3)

11-302. <u>Unlawful noises prohibited; exceptions; temporary</u> <u>permits</u>. (1) It shall be unlawful for any person to make, continue or cause to be made or continued any excessive, unnecessary or unusually loud noise or any other noise, considering the time, date, place or nature of such noise, so as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of another person of ordinary sensibilities within the city.

(2) It shall be unlawful to play any radio, phonograph, television set, amplified or unamplified musical instrument, loudspeaker, tape recorder or any other electronic sound-producing or recording device in such a manner or with such volume at any time or place so as to annoy or disturb the quiet, comfort or repose of any person of ordinary sensibilities within the city. The operation of any such devices referenced herein in such a manner as to be clearly audible on a property or in a dwelling unit other than that in which it is located shall create a rebuttable presumption of a violation of this section.

Change 1, December 18, 2006

(3) The city manager is authorized to issue temporary permits providing for exceptions to this section for commercial, political, civic, charitable, governmental and other organizations for activities or events of other than a day-to-day nature. Such permits shall be upon such conditions as imposed by the city manager considering the date, time of day, nature of the activity, reason of the activity, impact upon surrounding areas or other relevant considerations. Such permit shall be in writing and shall be available for display at the location where such noise is being created. (1969 Code, § 17-5)

[DELETED]

This chapter was deleted by Ord. #17-06, Sept. 2006.

OBSCENITY

SECTION

11-501. Obscene gestures generally.11-502. Profane, vulgar or indecent language.

11-501. <u>Obscene gestures generally</u>. No person shall make obscene or indecent gestures. (1969 Code, § 17-12, as replaced by Ord. #17-06, Sept. 2006)

11-502. <u>**Profane, vulgar or indecent language**</u>. No person shall use vulgar, profane or indecent language on any public place or in any public hall, club, restaurant or other place open to the public. (1969 Code, § 17-14)

[DELETED].

This chapter was deleted by Ord. #17-06, Sept. 2006.

OFFENSES AGAINST CHILDREN

SECTION

11-701. [Deleted.]11-702. [Deleted.]11-703. Unlawful purchases for minors.11-704. [Deleted.]

11-701. [Deleted.] (1969 Code, § 17-9, as deleted by Ord. #17-06, Sept. 2006)

11-702. **[Deleted.]** (1969 Code, § 17-10, as deleted by Ord. #17-06, Sept. 2006)

11-703. <u>Unlawful purchases for minors</u>. No person shall procure for any minor any article which the minor is forbidden by law to purchase. (1969 Code, § 17-11)

11-704. [Deleted.] (1969 Code, § 17-13, as deleted by Ord. #17-06, Sept. 2006)

WEAPONS

SECTION

11-801. Deleted.11-802. Deleted.11-803. Discharging firearms, spring or air gun, or bow and arrow.

11-801. <u>**Deleted.</u>** (1969 Code, § 17-60, as deleted by Ord. #17-06, Sept. 2006)</u>

11-802. <u>**Deleted</u></u>. (1969 Code, § 17-61, as deleted by Ord. #2-2015, Jan. 2015)**</u>

11-803. Discharging firearms, spring or air gun, or bow and arrow. No person, except such as may be authorized by other laws, shall fire or discharge, or cause to be fired or discharged, within the city, any firearm, spring gun, air gun, or bow and arrow except on those areas authorized and approved by the city manager as a target range for firing or discharging the same and with the consent and under the supervision of the owner. Such designated areas must be equipped with sufficient safety facilities and their use for such designated purpose sufficiently supervised with reasonable precautions being taken to insure the safety and welfare of the inhabitants of the city. For this purpose, the city manager, subject to the approval of city council, is hereby authorized to make any reasonable regulations regarding the equipping and use of such designated areas. (1969 Code, § 17-63)

ADVERTISING

SECTION

11-901. Posting of signs, advertisements, announcements, bills or banners on public utility poles, publicly-owned trees, public buildings or locations.

11-902. Noisy advertising.

11-901. Posting of signs, advertisements, announcements, bills or banners on public utility poles, publicly-owned trees, public buildings or locations. (1) No person shall post or affix any notice, poster, flyer, bumper sticker, or other paper or device calculated to attract the attention of the public to any lamppost, public utility pole, or publicly-owned tree, or upon any public structure or building, except as may be authorized or required by law.

(2) Placement of community identification signs, city-owned official signs, or official city seasonal decorations on lampposts, utility poles, public structures or public buildings may be authorized by the city manager.

(3) Placement of signs for a city sanctioned event or cause, in conjunction and/or partnership between the city and one or more businesses or organizations, on city controlled facilities or locations may be conditionally authorized by the city manager if said signs are either deemed to be for the overall community good (for example, a co-sponsored community special event or cause) or for the promotion of economic development of the community, including but not limited to hospitality signage for events to assist visitors or tourists in enjoying their visit to Oak Ridge. Said signs shall comply with the following:

(a) A specific event or community cause must be cited and/or intended to be promoted by the city;

(b) The signs shall not be of a permanent construction but shall be temporary in nature;

(c) Said signs shall not be posted earlier than thirty (30) days prior to the commencement of the event or cause nor remain longer than ten (10) days following the event or cause;

(d) Said signs shall not remain posted in a manner considered unsafe, unreasonably distracting or inconsistent with generally recognized community acceptability; and

(e) Said signs are subject to consideration for immediate removal if requested by the public to the city manager and such removal

11-902. <u>Noisy advertising</u>. No person shall advertise goods and wares by auction or otherwise on any street or in any public place, by the use of loudspeakers, by the ringing of bells, beating of drums, gongs, or by any other loud and noisy modes of advertising. (1969 Code, § 3-2)

HANDBILLS

SECTION

- 11-1001. Deposit or distribution on streets or other public places.
- 11-1002. Deposit in or on vehicles; distribution to occupants of vehicles.
- 11-1003. Distribution on private property generally.
- 11-1004. Distribution on posted private property; compliance with request not to distribute.
- 11-1005. Exemptions from chapter.

11-1001. Deposit or distribution on streets or other public places. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the city. It shall not be unlawful, on any sidewalk, street or other public place within the city, for any person to hand out or distribute, without charge to the receiver thereof, any handbill to any person willing to accept it. (1969 Code, § 3-13)

11-1002. Deposit in or on vehicles; distribution to occupants of vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. It shall not be unlawful, in any public place, for a person to hand out or distribute, without charge to the receiver thereof, any handbill to any occupant of a vehicle who is willing to accept it. (1969 Code, \S 3-14)

11-1003. <u>Distribution on private property generally</u>. Subject to all of the provisions of this chapter, handbills may be distributed on private premises, provided they are so placed or deposited as to prevent them from being blown or from drifting about the premises, the sidewalks, streets, or other public places. Handbills may not be deposited in mailboxes when prohibited by federal laws or regulations. (1969 Code, § 3-15)</u>

11-1004. Distribution on posted private property; compliance with request not to distribute. No person shall throw, deposit or distribute any commercial or noncommercial handbills upon any private premises, if there is placed thereon, in a conspicuous position near the entrance, a sign bearing the notice: "No Trespassing," "No Peddlers or Agents," "No Advertisements," or any similar notice indicating in any manner that the occupants of the premises do not desire to be molested or have the right of privacy disturbed or to have any such handbills left upon the premises. A request by any person lawfully on the premises that such hand bill not be distributed must be complied with. (1969 Code, § 3-17)

11-1005. <u>Exemptions from chapter</u>. The provisions of this chapter shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (1969 Code, \S 3-18)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

- 1. BUILDING ACCESSIBILITY BY PHYSICALLY DISABLED PERSONS.
- 2. BUILDING CODE.
- 3. TRADE LICENSING BOARD.
- 4. ELECTRICAL CODE.
- 5. LICENSES FOR ELECTRICAL CONTRACTORS AND ELECTRICIANS.
- 6. ELECTRICAL WORK PERMIT.
- 7. PLUMBING CODE--GENERALLY.
- 8. PLUMBER'S LICENSE.
- 9. PLUMBER'S WORK PERMIT.
- 10. FIRE CODE.
- 11. RESIDENTIAL CODE.
- 12. ENERGY CONSERVATION CODE.
- 13. MECHANICAL CODE.
- 14. LICENSES FOR MECHANICAL CONTRACTORS.
- 15. MECHANICAL WORK PERMIT.
- 16. CITATIONS AND ORDINANCE SUMMONSES.

CHAPTER 1

BUILDING ACCESSIBILITY BY PHYSICALLY DISABLED PERSONS

SECTION

- 12-101. Definitions.
- 12-102. Declaration of policy.
- 12-103. Minimum specifications.
- 12-104. Enforcement.
- 12-105. Compliance with provisions.

12-101. <u>Definitions</u>. For the purpose of this chapter the following definitions shall apply:

(1) "Public building" means any building, structure or improved area owned or leased by the city and any building, structure or improved area used primarily by the general public as a place of gathering or amusement; including but not limited to: theatres, restaurants, hotels, factories, office buildings, stadiums, hospitals, churches, voting areas, convention centers and all other places of public accommodation.

(2) "Physically disabled" means disabled on account of sight disabilities, hearing disabilities, disabilities of incoordination, disabilities of

aging, and any other disability that significantly reduces mobility, flexibility, coordination or perceptiveness.

(3) "Responsible authority" means the city manager or the city manager's duly authorized representative.

(4) "Renovation," "modification" or "alteration" means with respect to an existing public building to construct an addition, make substantial repair or substantially alter the appearance, design or layout. (1969 Code, § 9-12.1)

12-102. <u>Declaration of policy</u>. It is declared to be the policy of the City of Oak Ridge to make all public buildings accessible to and functional for persons who are physically disabled. (1969 Code, § 9-12.2)

12-103. <u>Minimum specifications</u>. (1) Any public building which is constructed, enlarged or substantially altered or repaired after the effective date of the ordinance comprising this section, shall be designed and constructed pursuant to specifications, approved by the responsible authority, making such building accessible to and usable by persons with disabilities. The minimum specifications shall be the Accessible and Usable Buildings and Facilities ICC A117.1-2009 Code thereto, which is hereby adopted by reference and shall become a part of this chapter as if copied herein verbatim, except as such code may be in conflict with other provisions of this chapter, in which event such other provisions of this chapter shall prevail.

(2) The minimum specifications for a project shall be those in effect at the time the project is submitted to the responsible authority for final approval of the construction, enlargement, alteration or repair.

(3) All auditoriums, theaters, gymnasiums, stadiums and other public entertainment facilities must provide accommodations in level or nearly level locations from which persons confined in wheelchairs may see and hear the offered entertainment as well as persons regularly seated in the facility. (Ord. #19-00, Aug. 2000, as replaced by Ord. #1-08, Jan. 2008, and Ord. #15-2012, Oct. 2012)

12-104. <u>Enforcement</u>. The building official shall be responsible for the enforcement of this chapter and the minimum specifications shall be complied with as to buildings under construction as of February 1, 1975. (1969 Code, § 9-12.4, as replaced by Ord. #1-08, Jan. 2008)

12-105. <u>Compliance with provisions</u>. It shall be unlawful to design or construct any public building without complying with the provisions of this chapter and the city may seek injunctive relief to prevent any such violation. (1969 Code, § 9-12.5)

BUILDING CODE¹

SECTION

12-201. Building code adopted.

12-202. Amendments.

12-203. Manufactured homes.

12-201. <u>Building code adopted</u>. The <u>International Building Code</u>, 2012 edition, including appendices A, C, F, G, H and K, are hereby adopted by reference and shall become a part of this chapter as if copied herein verbatim, except as such code may be in conflict with other provisions of this chapter, in which event such other provisions of this chapter shall prevail. (Ord. #14-00, Aug. 2000, § 1, as replaced by Ord. #3-08, Jan. 2008, and Ord. #18-2012, Oct. 2012)

12-202. <u>Amendments</u>. (1) <u>Generally</u>. The building code and the appendices adopted by § 12-201 are hereby amended as set out in this section. All references to section numbers in the text of this section shall be considered as if followed by the words "of the building code," unless clearly indicated to the contrary. In all places where the building code requires the insertion of the jurisdiction name, the City of Oak Ridge, Tennessee, shall be inserted.

(2) <u>Titles and designations</u>. Titles and designations used in the building code shall be changed to conform with the proper city titles and departments as follows:

(a) "Building official" shall mean the city manager or the city manager's designee.

(b) "Board of appeals" shall mean the city's board of building and housing code appeals.

(c) "Chief appointing authority" shall mean city manager.

(d) "Department of law" shall mean city attorney.

(3) <u>Appendix H</u>. Appendix H is hereby amended as follows:

(a) <u>Section H101.2</u>, <u>Signs exempt from permits</u>. Delete subsection 1 in its entirety.

(b) <u>Section H102.1, General</u>. Delete the definitions for "ground sign" and "roof sign" in their entirety.

¹Municipal code reference

Fire protection: title 7.

Planning and zoning: title 14.

Water and sewers: title 18.

(c) <u>Section H104, Identification</u>. Section H104 is hereby deleted in its entirety.

(d) <u>Section H105.2 Permits, drawings and specifications</u>. In the first sentence, delete the word "shall" and replace with "may."

(e) <u>Section H110, Roof Signs</u>. Section H110 is hereby deleted in its entirety.

(f) <u>Section H114.1, General</u>. In the first sentence, delete the word "roof."

(4) <u>Section 103.1, Creation of enforcement agency</u>. Section 103.1 is hereby deleted in its entirety and is replaced with the following:

(a) <u>Section 103.1, Building Official</u>. The provisions of this code shall be enforced by the Building Official.

(5) <u>Section 105.2</u>, <u>Work exempt from permit</u>. This section is hereby amended by deleting all items listed under the heading "Building," except for items numbered 7, 11 and 13, which shall remain in their entirety.

(6) <u>Section 105, Permits</u>. Section 105 is hereby amended by adding the following new subsections:

(a) <u>Section 105.8</u>, <u>Contractor License</u>. It shall be the duty of every contractor or builder who shall make contracts for the erection or construction or repair of buildings for which a permit is required in the city and every contractor or builder making such contracts, and subletting the same, or any part thereof, to pay a privilege license tax as provided by ordinance and to register his or her name in a book provided for the purpose with the code enforcement administrator, giving full name, residence, and place of business, and in case of removal from one place to another in the city to have made corresponding change in said register accordingly.

(b) <u>Section 105.9, Liability Insurance</u>. Any contractor doing work requiring a city building permit shall present evidence of liability insurance with coverage in an amount acceptable to the city manager.

(c) <u>Section 105.10</u>, <u>Workers' Compensation Insurance</u>. Any contractor doing work requiring a city building permit shall present evidence of workers' compensation insurance in compliance with state regulations.

(7) <u>Section 107.2.5. Site plan</u>. Section 107.2.5 is hereby amended by inserting the following sentence in between the first and second sentences:

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.

(8) <u>Section 113.1. Generally</u>. Section 113.1 is hereby deleted in its entirety and replaced with the following:

The board of appeals shall hear all appeals provided for in this chapter in accordance with rules and regulations established by such board for such appeals, which rules and regulations shall not be inconsistent with the provisions of this code. The board shall meet at such regular intervals as determined necessary by the board, but shall meet within fifteen (15) days after a notice of appeal under this chapter has been received. Every decision shall be promptly filed in writing in the office of the code enforcement administrator, and shall be open to public inspection, and a copy shall be mailed to the appellant at the address contained in the notice of appeal.

The provisions of this section shall become effective August 1, 1991.

(9) <u>Section 113.2. Limitations on authority</u>. Section 113.2 is hereby amended by adding the following to the end of the section:

Notice of appeal shall be in writing and filed within sixty (60) days after the decision is rendered by the building official and/or the fire official. The required fee established by city policy shall accompany such notice of appeal.

(10) <u>Section 113. Board of appeals</u>. Section 113 is hereby amended by adding the following new subsections:

(a) <u>Section 113.4. Unsafe or dangerous building</u>. In case of a building or structure which, in the opinion of the building official, is unsafe or dangerous, the board may on request of the building official shorten the time for appeal.

(b) <u>Section 113.5.</u> Appeals from fire, plumbing, electrical, residential, mechanical and property maintenance inspectors' decision. The board of appeals shall act as the board which hears appeals from the decisions of the fire inspector on interpretations of the fire code, the electrical inspector on interpretations of the electric code, the plumbing inspector on interpretations of the plumbing code, the building inspector on interpretations of the residential code, the mechanical inspector on interpretations of the mechanical code and the property maintenance inspector on interpretations of the property maintenance code, as well as acting as the appeals board under this code.

(c) <u>Section 113.6. Variances</u>. The board of appeals, when appealed to and after a hearing, may vary the application of any provision of the fire code, electrical code, plumbing code, residential code, mechanical code, property maintenance code, and this code to any particular case when, in its opinion, the enforcement there would do manifest injustice and would be contrary to the spirit and purpose of that particular code, or when the interpretation of the building official, the fire official, the electrical inspector, the mechanical inspector, the property maintenance inspector, or the plumbing inspector should be modified or

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reversed, provided, however, the board of appeals also finds all of the following:

(i) That special conditions and circumstances exist which are peculiar to the building, structure or service system involved and which are not applicable to others.

(ii) That the special conditions and circumstances do not result from the action or inaction of the applicant.

(iii) That granting the variance requested will not confer on the applicant any special privilege that is denied to other buildings, structures or service systems.

(iv) That the variance granted is the minimum variance that will make possible the reasonable use of the building, structure or service system.

(v) That the grant of the variance will be in harmony with the general intent and purpose of the adopted code and will not be detrimental to the public health, safety and general welfare.

(d) <u>Section 113.7. Action</u>. The board of appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. If the decision be to vary or modify the application of the building, fire, electric, plumbing or property maintenance code, or if it varies or modifies an order of the building official, fire official, or the plumbing, electrical, or property maintenance inspector, the board's decision shall indicate how the variation or modification is made and any condition on which it is made. All decisions shall indicate the reasons therefor.

(e) <u>Section 113.8. Decisions are final</u>. Every decision of the board of appeals shall be final, subject, however, to such remedy as any aggrieved party might have in law or at equity.

(11) <u>Section 114.4. Violation penalties</u>. Section 114.4 is hereby deleted in its entirety and replaced with the following:

Any person, firm, corporation, or agent who shall violate any provisions of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, demolish or move any structure or has erected, constructed, altered, repaired, moved or demolished a building or structure in violation of a detailed statement or drawing submitted and approved thereunder, or who shall fail to comply with such an order as affirmed or modified by the city court or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in § 1-107 of this code of ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

(12) <u>Section 903. Automatic sprinkler systems</u>. This section is hereby amended as follows:

(a) The square footage amounts referred to in certain sections of section 903 are hereby deleted and replaced as follows:

(i) In Sections 903.2.1.1, 903.2.1.3, 903.2.1.4, 903.2.9.1, and 903.2.9.2 (requiring sprinkler systems to be installed at a square footage threshold), replace the number 12,000 with the number 10,000.

(ii) In Sections 903.2.4, 903.2.7, and 903.2.9 (requiring sprinkler systems to be installed at a square footage threshold), replace the number 12,000 with the number 10,000, and replace the number 24,000 with the number 20,000.

(iii) In Section 903.2.3 (requiring sprinkler systems to be installed at a square footage threshold in Educational Occupancies), replace the number 12,000 with the number 10,000.
(b) Section 903.2.13. Additional sprinkler requirements.

(i) Sprinkler system in new construction. Except where more stringent requirements are stipulated elsewhere in the building code, all new commercial and residential buildings of ten thousand (10,000) square feet or more shall be equipped with an approved automatic sprinkler system.

(ii) Sprinkler system in large additions to buildings. Any new addition, which is more than ten thousand (10,000) square feet, connected to an existing building of any size, shall be equipped with an approved automatic fire sprinkler system. The new addition shall either:

(A) Be separated from the existing building by twohour or greater construction; or

(B) Have the sprinkler system extend to cover the existing construction as well as the new addition.

(iii) Sprinkler system in small additions to buildings. Any new addition of more than five thousand (5,000) square feet but less than ten thousand (10,000) square feet that does not increase the size of the complete facility (existing plus new addition) to more than ten thousand (10,000) square feet shall be equipped with a complete automatic fire detection system or fire sprinkler system. The new addition with the automatic fire detection or fire sprinkler system installed shall either:

(A) Be separated from the existing building by twohour or greater construction; or (B) Have the fire detection or fire sprinkler system extend to cover the existing construction as well as the new addition.

(iv) Sprinkler system in additions to unsprinklered buildings. Any new addition that will increase the size of the complete facility (existing building plus new addition) to more than ten thousand (10,000) square feet shall either:

(A) Be separated from the existing construction by a non-penetrated, four-hour fire wall and have an automatic fire detection system installed in the new addition and the existing building; or

(B) Be separated from the existing construction by a two-hour or greater fire wall, and have an automatic fire detection system installed in both the new addition and the existing building; or

(C) Be separated from the existing construction by a two-hour or greater fire wall, and have an automatic fire sprinkler system installed in the new addition; or

(D) Have an automatic fire sprinkler system installed in the entire facility, both the new addition and the existing building.

The term "automatic fire sprinkler system" means a system meeting the requirements of the latest edition of the application National Fire Protection Association standard for the installation of sprinkler systems.

(v) Fire sprinkler systems shall be installed when required by the City of Oak Ridge Standard Construction Requirements and Details, specifically section 602(2), <u>Adequate</u> <u>Fire Protection</u>, which is reprinted here:

In any one or more of the conditions listed below, the developer or builder shall provide a means for adequate fire protection including but not limited to the installation of a domestic sprinkler system complying with applicable codes, the installation of an additional fire hydrant capable of supplying adequate flow, or the installation of a booster pump to increase flow to an acceptable level at the structure.

(A) Any part of the building is more than five hundred feet (500') from a hydrant measured along an accessible roadway; or

(B) The nearest hydrant provides a water supply of less than five hundred (500) gpm in residential areas of one-thousand (1,000) gpm in non-residential areas at twenty (20) pounds per square inch residual pressure at periods of peak demand.

(C) The elevation difference between the highest floor of the referenced structure and the nearest hydrant prevents adequate water flow and pressure for fire protection at that structure.

(vi) Detection system or sprinkler system for smaller buildings. Except where more stringent requirements are stipulated in the building code, all buildings of greater than five thousand (5,000) square feet hereafter constructed shall be equipped with an automatic fire detection system, approved by the fire chief, using UL listed equipment, and monitored through an approved central station facility, or an approved automatic sprinkler system monitored as outlined above, except where fourhour non-penetrated fire walls divide the building into units of less than five thousand (5,000) square feet.

(vii) Open parking garages, exception to sprinkler requirement.

(A) Open parking garage shall mean a structure, or portion thereof, that is used for the parking or storage of private motor vehicles with openings described as follows:

(1) For natural ventilation purposes, the exterior side of the structure shall have uniformly distributed openings on two (2) or more sides. The area of such openings in exterior walls on a tier must be at least twenty percent (20%) of the total perimeter wall area of each tier. The aggregate length of the openings considered to be providing natural ventilation shall constitute a minimum of forty percent (40%) of the perimeter of the tier. Interior walls shall be at least twenty percent (20%) open with uniformly distributed openings.

(2) Exception. Openings are not required to be distributed over forty percent (40%) of the building perimeter where the required openings are uniformly distributed over two (2) opposing sides of the building.

(B) An open parking garage shall not be required to be equipped with an approved automatic fire sprinkler system provided the following requirements are met:

(1) The open parking garage is above ground;

(2) No space for human occupancy shall be located below, within or above the open parking

garage except as ancillary to the operation of the open parking garage;

(3) Two (2) or more sides of the open parking garage shall be open and accessible to aerial fire apparatus;

(4) Attached structure(s) shall be separated from the open parking garage by a wall with a minimum of a two-hour fire rating certified by a competent engineer;

(5) A standpipe system, meeting the requirements of NFPA 14, shall be provided with outlets no more than one hundred thirty feet (130') from any point within the open parking garage;

(6) A fire hydrant shall be provided within one hundred feet (100') of the fire department supply connection to the standpipe system; and

(7) The open parking garage shall comply with all applicable requirements of the model codes adopted by the city.

(C) Exception. If a model code adopted by the city requires the open parking garage to be equipped with an approved automatic sprinkler system, the provisions of this section shall not apply and the open parking garage shall be equipped with an approved automatic sprinkler system.

(13) <u>Section 1013.2. Where required</u>. Section 1013.2 is amended by deleting the first sentence and replacing it with the following sentence:

Guards shall be located along open-sided walking surfaces or ground surfaces, mezzanines, industrial equipment platforms, retaining walls, stairways, ramps, landings and any other locations that are located more than thirty inches (30") (762mm) above the floor or grade below.

(14) <u>Chapter 11 Accessibility</u> is hereby deleted in its entirety.

(15) <u>Section 1612.3. Establishment of flood hazard areas</u>. Section 1612.3 is hereby amended to specify the city has two (2) flood insurance studies which are as follows: Flood Insurance Study for Anderson County, Tennessee, and Incorporated Areas, effective January 17, 2007, and Flood Insurance Study for Roane County, Tennessee, and Incorporated Areas, effective September 28, 2007.

(16) <u>Section 3410.2. Applicability</u>. Section 3410.2 is hereby amended by inserting the required date as "the date of the adoption of the first building code regulations in the City of Oak Ridge, Tennessee." (1969 Code, §§ 9-19--9-31, as amended by Ord. #14-95, Aug. 1995, Ord. #14-00, Aug. 2000, Ord. #22-00, Aug. 2000, Ord. #14-03, July 2003, Ord. #21-04, Nov. 2004, and replaced by Ord. #3-08, Jan. 2008, and Ord. #18-2012, Oct. 2012)

12-203. <u>Manufactured homes</u>. (1) <u>Defined</u>. A manufactured home is a residential dwelling unit which:

(a) Contains one thousand (1,000) or more square feet of living space;

(b) Is composed of one (1) or more components, each of which was substantially assembled in a manufacturing plant;

(c) Is transported to the homesite on its own chassis;

(d) Was constructed after June 1, 1976 and meets or exceeds construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction;

(e) Has a length not exceeding four (4) times its width; and

(f) Has a width of at least twenty feet (20').

(2) <u>Standards</u>. Manufactured homes shall comply with the federal "Manufactured Home Construction and Safety Standards" dated August 11, 1987, including any subsequent revisions or amendments thereto, and shall comply with the following provisions:

(a) The pitch of the roof shall have a minimum vertical rise of two and two-tenths (2.2) feet for each twelve feet (12') of horizontal run and the finish shall be with a type of shingle commonly used in standard residential construction.

(b) The exterior siding shall consist predominantly of vinyl or aluminum lap siding, wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(c) The home shall be installed on a permanent foundation system in accordance with all applicable requirements of the building code.

(d) Stairs, porches, entrances, platforms and other means of entrance and exit to the home shall be installed and constructed in accordance with the building code.

(e) The moving hitch, wheels and axles, and transporting lights shall be removed.

(f) All utilities shall be permanently connected to a public utility system in accordance with all applicable city codes, provided an approved septic tank is acceptable where public sewer is not available.

(g) A manufactured home unit shall bear the label or seal of compliance with the Federal Manufactured Home Construction and Safety Standards issued by an agency approved by the Secretary of the Department of Housing and Urban Development. (1969 Code, §§ 9-35 and 9-36, as replaced by Ord. #18-2012, Oct. 2012)

TRADE LICENSING BOARD

SECTION

- 12-301. Established; composition.
- 12-302. Appointment of members.
- 12-303. Members not to own or be employed by same firm.
- 12-304. Terms of members; filling of vacancies; removal of members.
- 12-305. Chairperson.
- 12-306. Secretary.
- 12-307. Rules of procedure; meetings.
- 12-308. General powers and duties.
- 12-309. Records open to public inspection.
- 12-310. Examination of applicants.
- 12-311. [Deleted.]
- 12-312. [Deleted.]
- 12-313. [Deleted.]
- 12-314. [Deleted.]
- 12-315. [Deleted.]
- 12-316. [Deleted.]
- 12-317. [Deleted.]
- 12-318. [Deleted.]

12-301. Established; composition. There is hereby established in the city a trade licensing board, which shall consist of seven (7) members. Effective January 1, 2013, such board shall be composed of two (2) members holding a current and valid Class I or II electrical license from the City of Oak Ridge, two (2) members holding a current and valid plumber's license from the City of Oak Ridge, two (2) members holding a current and valid mechanical license from the City of Oak Ridge, if such qualified applicants are available, and the remaining member from the public at large, including persons who possess current and valid electrical, plumbing, and mechanical licenses.

In order to stagger the membership for the mechanical license holders, one (1) member's term shall expire on December 31, 2015, and the other member's term shall expire on December 31, 2013. Thereafter, the terms of office shall be for three (3) year terms as set forth in § 12-304. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011, and Ord. #21-2012, Oct. 2012)

12-302. <u>Appointment of members</u>. Members of the board shall be appointed by city council. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-303. <u>Members not to own or be employed by same firm</u>. Board members shall not own or be employees of the same contracting corporation, firm, partnership or individual employer. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-304. <u>Terms of members; filling of vacancies; removal of</u> <u>members</u>. Of the members first appointed to the board, three (3) members shall serve through December 31, 2014, two (2) members shall serve through December 31, 2013, and two (2) members shall serve through December 31, 2012. Thereafter, the term of office for board members shall be three (3) years commencing on January 1. In case of resignation, death, or removal from office, another appointment will be made to finish out the unexpired term of office of the former member. Members of the board may be removed for good cause by the city council at any time. Removal of members due to absences shall be governed by the attendance policy established by city council for all boards and commissions. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-305. <u>Chairperson</u>. The chairperson of the board shall be elected by the board from members serving on the board. The chairperson shall preside at meetings and shall have such other duties as designated by the board. In the absence of the chairperson, the board shall elect a chairperson pro tem. (Ord. #16-00, Aug. 2000, as replaced by Ord. #2-08, Jan. 2008, Ord. #6-09, April 2009, and Ord. #4-11, March 2011)

12-306. <u>Secretary</u>. A secretary shall be elected by the board from the members of the board. The secretary shall prepare or have prepared minutes of all meetings, and shall have such other responsibilities as assigned by the board. In the absence of the secretary, the board shall elect a secretary pro tem. Copies of all minutes shall be filed with and kept in the custody of the city clerk, and shall be available for public inspection. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-307. <u>**Rules of procedures: meetings</u>**. The board shall establish written rules and regulations for its own procedure consistent with the provisions of the electrical and plumbing codes of the City of Oak Ridge. Such rules, or any changes thereto, shall be approved by city council and shall be filed with the city clerk. The board shall meet at regular intervals at the call of the chairperson of the board or the city manager. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)</u>

12-308. <u>General powers and duties</u>. The board shall set standards and procedures for the qualification, examination, and licensing of Class I Electrical Contractors, Class II Residential Electrical Contractors, Master Electrician Certifications, Master Plumbers, and Journeyperson certifications under the provisions of the electrical and plumbing codes of the City of Oak Ridge. Such standards and procedures shall be approved by city council. The board shall exercise the powers and perform the duties provided for in the electrical and plumbing codes of the City of Oak Ridge and shall have such other duties and powers as are necessary to carry out the intent and provisions of the electrical and plumbing codes of the City of Oak Ridge. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-309. <u>Records open to public inspection</u>. All records of the board shall be maintained by the city manager or the city manager's designee and shall be open to inspection by the public. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-310. <u>Examination of applicants</u>. The board shall use only boardapproved testing agencies for the electrical and plumbing construction industry, which shall include the State of Tennessee Licensing Board's approved test designed to measure competency in the electrical and plumbing professions. The test grade shall be current within two (2) years of an applicant appearing before the board. All examinations shall be proctored by a qualified person. (Ord. #14-03, July 2003, as replaced by Ord. #4-11, March 2011)

12-311. [Deleted]. (Ord. #14-95, Aug. 1995, § 12, as deleted by Ord. #4-11, March 2011)

12-312. [Deleted]. (Ord. #14-95, Aug. 1995, § 12, as deleted by Ord. #4-11, March 2011)

12-313. [Deleted]. (Ord. #14-95, Aug. 1995, § 12, as deleted by Ord. #4-11, March 2011)

12-314. [Deleted]. (Ord. #14-95, Aug. 1995, § 12, as deleted by Ord. #4-11, March 2011)

12-315. [Deleted]. (Ord. #14-95, Aug. 1995, § 12, as deleted by Ord. #4-11, March 2011)

12-316. [Deleted]. (Ord. #14-95, Aug. 1995, § 12, as deleted by Ord. #4-11, March 2011)

12-317. [Deleted]. (Ord. #14-95, Aug. 1995, § 12, as deleted by Ord. #4-11, March 2011)

12-318. [Deleted]. (Ord. #14-95, Aug. 1995, § 12, as deleted by Ord. #4-11, March 2011)

ELECTRICAL CODE¹

- 12-401. Short title.
- 12-402. Definitions.
- 12-403. Provisions remedial; construction of provisions.
- 12-404. Application of provisions.
- 12-405. Electrical code adopted.
- 12-406. Appointment of inspectors, etc., to administer and enforce provisions.
- 12-407. Duty of city manager or the city manager's designee to enforce provisions.
- 12-408. Records.
- 12-409. Restrictions on city employees engaging in electrical business.
- 12-410. Liability insurance; workers' compensation.
- 12-411. Inspection of new work generally.
- 12-412. Roughing-in inspection of new work.
- 12-413. Final inspection of new work.
- 12-414. Certificate of approval for new work--generally.
- 12-415. Certificate of approval for new work--temporary work.
- 12-416. Stop work order.
- 12-417. Periodic inspection of existing installation; repair or demolition of unsafe installations.
- 12-418. Appeals from decisions of city manager or the city manager's designee.

12-401. <u>Short title</u>. The provisions embraced within chapters 3, 4, 5 and 6 shall constitute, be known as, and may be cited as "The Electrical Code of the City of Oak Ridge." (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-402. <u>Definitions</u>. In the enforcement of chapters 3, 4, 5 and 6, the following definitions shall apply, unless clearly indicated to the contrary:

(1) "Apprentice" or "helper" is an individual not holding any type of electrical license, employed by a Class I Electrical Contractor, Class II Residential Electrical Contractor, Class IV Appliance Electrician, or journeyperson electrician to assist in the performance of electrical work for which the electrical contractor, appliance electrician, journeyperson or residential electrical contractor is licensed.

(2) "Board." The term "board" shall mean the Trade Licensing Board created by § 12-301.

¹Municipal code reference

Electric utility: title 19.

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(3) "Class I: Electrical Contractor." The words "Class I Electrical Contractor" shall mean a person, firm or corporation who has been issued such a license and certificate by the City of Oak Ridge.

(4) "Class II: Residential Electrical Contractor." The words "Class II Residential Electrical Contractor" shall mean a person, firm or corporation who has been issued such a license and certificate by the City of Oak Ridge.

(5) "Class III: Maintenance Electrician." The words "Class III Maintenance Electrician" shall mean a person, firm or corporation who has been issued such a license and certificate by the City of Oak Ridge.

(6) "Class IV: Appliance Electrical Contractor." The term "Class IV Appliance Electrical Contractor" shall mean a person, firm or corporation who has been issued such a license and certificate by the City of Oak Ridge.

(7) "Electrical appliance." An "electrical appliance" is utilization equipment, generally other than industrial, normally built in standard sizes or types, which is installed or connected as a unit to perform one or more functions, such as clothes washing, air conditioning, food mixing, deep frying, etc., and may be either fixed, portable, or stationary.

(8) "Electrical permit" is the required authorization for work to proceed at the location and under the conditions described in the permit.

(9) "Journeyperson electrician." The words "journeyperson electrician" shall mean a person, firm or corporation who has been issued such a certificate by the City of Oak Ridge.

(10) "Maintenance" and "repair." The words "maintenance" and "repair" are hereby defined as the repair of existing wiring devices, motors, and equipment.

(11) "Master electrician" shall mean a person who has been issued such a certificate by the City of Oak Ridge.

(12) "On-site representative" is either the qualifying party or his or her on-site designee who is the on-site authorized company representative.

(13) "Qualified person" is an individual who has taken and passed the required electrical examination from the appropriate examining authority and shall be responsible for all work performed under the license. (Ord. #14-95, Aug. 1995, § 12, as replaced and amended by Ord. #4-11, March 2011)

12-403. <u>Provisions remedial; construction of provisions</u>. The provisions of The Electrical Code of the City of Oak Ridge are hereby declared to be remedial, and shall be construed to secure the beneficial interest and purposes, which are general public safety and welfare, by regulating the installation and maintenance of all electrical work in the city. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-404. <u>Application of provisions</u>. The provisions of chapters 3, 4, 5 and 6 shall apply to every electrical installation, including alterations, repairs,

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equipment, wiring, construction and/or appurtenances thereto, within the city. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-405. <u>Electrical code adopted</u>. The <u>National Electrical Code</u>, 2011 edition, is hereby adopted by reference and shall become a part of The Electrical Code of the City of Oak Ridge as if copied herein verbatim, except as such code may be in conflict with other provisions of The Electrical Code of the City of Oak Ridge, in which event such other provisions shall prevail. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011, and amended by Ord. #12-2012, Oct. 2012)

12-406. <u>Appointment of inspectors, etc., to administer and enforce</u> **provisions**. The city manager shall appoint such number of officers, inspectors, assistants and other employees as shall be authorized from time to time in order to promote the public safety and to administer and enforce the provisions and intent of The Electrical Code of the City of Oak Ridge. All persons so appointed shall be experienced in the electrical craft and fully qualified to perform their assigned duties. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-407. Duty of city manager or the city manager's designee to enforce provisions. The city manager or the city manager's designee shall enforce the provisions of The Electrical Code of the City of Oak Ridge, and such persons, consistent with any constitutional limitations, may enter any building, structure or premises in the city to perform any duty imposed by chapters 3, 4, 5 and 6 of this title. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-408. <u>**Records</u>**. The city manager or the city manager's designee shall keep or cause to be kept records of the administration and enforcement of The Electrical Code of the City of Oak Ridge. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)</u>

12-409. <u>Restrictions on city employees engaging in electrical</u> <u>business</u>. No officer or employee of the city charged with the duty of enforcing The Electrical Code of the City of Oak Ridge, except one whose connection is as a member of the board of electrical examiners, shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration or maintenance of electrical installations or in the making of plans or of specifications therefor, unless he or she is owner of the building involved. No such officer or employee shall engage in any work which is inconsistent with his or her duties or with the interest of the city. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011) **12-410.** <u>Liability insurance; workers' compensation</u>. All electrical contractors who have been issued a Class I, II, or IV license must meet the following requirements:

(1) <u>Liability insurance required for electrical contracting business</u>. Every person, firm or corporation engaged in the business of electrical contracting in the city shall present evidence of liability insurance and/or assurance with coverage in an amount acceptable to the city manager.

(2) <u>Workers' compensation insurance</u>. Every person, firm or corporation engaged in the business of electrical contracting in the city shall present evidence of workers' compensation insurance in compliance with state regulations. (Ord. #14-95, Aug. 1995, § 12, as replaced by Ord. #4-11, March 2011)

12-411. <u>Inspection of new work generally</u>. All new electrical work and such portions of existing systems as may be affected by new work or any changes shall be inspected to ensure compliance with all of the requirements of The Electrical Code of the City of Oak Ridge. (as added by Ord. #4-11, March 2011)

12-412. <u>Roughing-in inspection of new work</u>. When any part of a wiring installation is to be hidden from view by the permanent placement of parts of the building, the person installing the wiring shall notify the city manager or his or her designee and such parts of the wiring installation shall not be concealed until they have been inspected and approved by the city manager or his or her designee. On large installations where concealment of parts of wiring proceeds continuously, the person installing the wiring shall notify the city manager or his or her designee so that he or she can make inspections periodically during the progress of the work. (as added by Ord. #4-11, March 2011)

12-413. <u>Final inspection of new work</u>. Upon the completion of the work which has been authorized by issuance of a permit under The Electrical Code of the City of Oak Ridge, it shall be the duty of the person installing the same to notify the city manager or the city manager's designee who shall inspect the completed installation. (as added by Ord. #4-11, March 2011)

12-414. <u>Certificate of approval for new work--generally</u>. If the completed electrical installation inspected pursuant to this chapter is found to be fully in compliance with the provisions of The Electrical Code of the City of Oak Ridge, the city manager or the city manager's designee shall issue a certificate of approval authorizing connection to the electrical service, the turning on of the current and the use of the installation. (as added by Ord. #4-11, March 2011)

12-415. <u>Certificate of approval for new work--temporary work</u>. When a certificate of approval is issued authorizing the connection and use of temporary work, such certificate shall be issued to expire at a time to be stated therein and shall be revocable by the city manager or the city manager's designee for cause. (as added by Ord. #4-11, March 2011)

12-416. <u>Stop work order</u>. Upon notice from the city manager or the city manager's designee that work or any electrical installation is being done contrary to the provisions of The Electrical Code of the City of Oak Ridge or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of such property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, oral notice given by the city manager or the city manager's designee shall be sufficient, but it shall be immediately followed by written notice. (as added by Ord. #4-11, March 2011)

12-417. <u>Periodic inspections of existing installation; repair or</u> <u>demolition of unsafe installations</u>. (1) The city manager or the city manager's designee, at his or her discretion, shall periodically make a thorough reinspection of the installation of all electric wiring, devices, appliances, and equipment now installed or that may hereafter be installed within the city and within the scope of The Electrical Code of the City of Oak Ridge, and when the installation of any such wiring, devices, appliances or equipment is found to be in a dangerous or unsafe condition, the person owning, using, or operating the same shall be notified in writing and shall make the necessary repairs or changes required to place such wiring, devices, and equipment in safe condition and have such work completed with fifteen (15) days or any longer period specified by the city manager or his or her designee in such notice.

(2) All electrical installations, regardless of type, which are unsafe, or which constitute a hazard to human life, health or welfare, are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition as the city manager or the city manager's designee directs in compliance with the provisions of this section, provided where such dangerous or defective condition constitutes an immediate hazard to human health, safety, or welfare, immediate repair or abatement may be required. (as added by Ord. #4-11, March 2011)

12-418. <u>Appeals from decisions of city manager or the city</u> <u>manager's designee</u>. (1) Whenever the city manager or the city manager's designee shall reject or refuse to approve the mode or manner of construction proposed to be followed, or materials to be used, or when it is claimed that the provisions of The Electrical Code of the City of Oak Ridge do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and Change 4, December 10, 2012

meaning of The Electrical Code of the City of Oak Ridge or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his or her duly authorized agent, may appeal from the decision of the city manager or his or her designee to the board of building code appeals. Notice of appeal shall be in writing and filed within sixty (60) days after the decision is rendered by the city manager or his or her designee. Fees for appeals shall be established by the city manager.

(2) In case of a condition which, in the opinion of the city manager or the city manager's designee is unsafe or dangerous, the city manager or the city manager's designee may, in his or her order, limit the time for such appeal to a shorter period.

(3) Appeals under this section shall be on forms provided by the city manager or his or her designee. (as added by Ord. #4-11, March 2011)

LICENSES FOR ELECTRICAL CONTRACTORS AND ELECTRICIANS

SECTION

- 12-501. Required--generally.
- 12-502. Exceptions.
- 12-503. Application.
- 12-504. Qualifications of applicant.
- 12-505. Public hearing on application for Class I, II and IV licenses and Master Electrician Certificate and Journeyperson Electrician's Certificate.
- 12-506. License to be obtained thirty days after meeting minimum licensing requirements; exception.
- 12-507. Fees.
- 12-508. Issuance generally.
- 12-509. Issuance by reciprocity.
- 12-510. License contents.
- 12-511. Work authorized.
- 12-512. Display.
- 12-513. Expiration and renewal.
- 12-514. Disciplinary action.

12-501. <u>Required--generally</u>. (1) Except as otherwise provided in § 12-502, no person shall engage in the business of installing, altering or repairing, within the city, any electric wiring, electric devices, electric equipment or electric appliances, unless such person shall have received a Class I Electrical Contractor's license, or a Class II Residential Electrical Contractor's license, or a Class IV Appliance Electrical Contractor's license, as the case may be depending upon the type of electrical work contracted for or engaged in, issued in accord with this chapter.

(2) Any firm, corporation, or other such person engaged in the electrical business shall have employed a qualified person having a Class I Electrical Contractor's license, a Class II Residential Contractor's license, or a Class IV Appliance Electrical Contractor's license, depending upon the type of work being engaged in by such firm or corporation, and everyone who does any actual electrical work for such firm or corporation must be licensed or supervised as set forth in this chapter.

When the qualified person providing technical expertise for electrical contract work for a firm or corporation leaves the firm or corporation, the firm or corporation shall have 90 days to employ another qualified person.

(3) Any regularly employed individual performing electrical maintenance incidental to and in connection with work on the premises of the business in which he or she is employed shall be required to have a Class III

Maintenance Electrician license under this chapter. (Ord. #14-95, Aug. 1995, \S 12)

12-502. <u>Exceptions</u>. The following persons shall not be required to have the license required by § 12-501:

(1) Any person doing his or her own work personally, in a single-family dwelling used exclusively for living purposes, and who is the bona fide owner of and occupies or will occupy such dwelling, and who personally purchases all materials and performs all labor in connection therewith, shall not be required to have a license under The Electrical Code of the City of Oak Ridge. Such privilege does not convey the right to violate any of the provisions of this chapter, nor is it to be construed as exempting any such owner from obtaining a permit, except for minor repairs, and paying the required fees therefor.

(2) Apprentice electricians or electrical helpers are not required to have a license under this section. However, they will only be allowed to work for a person, firm or corporation that holds a valid Class I Electrical Contractor's license, a Class II Residential Electrical Contractor's license or Class IV Appliance Electrical Contractor's license as the case may be depending upon the type of electrical work authorized to be done by such license holder.

(3) Any employee of the city or city school system employed after June 1, 1988, to do electrical work for the city or school system shall have a Journeyperson's Certificate. (Ord. #14-95, Aug. 1995, § 12)

12-503. <u>Application</u>. Any person, firm or corporation desiring a license or certificate required by this chapter shall apply therefor to the board, in writing, using the forms provided by the city. The application must be filled out completely, legibly, and be dated and signed. Obtaining the verifiable references required by § 12-504 is the responsibility of the applicant. The applicant's references shall show broad electrical experience. (Ord. #14-95, Aug. 1995, § 12)

12-504. Qualifications of applicant. Subject to the authority of the board to set higher standards with city council approval, the following minimum standards and qualifications shall be met before the board grants a license required by this chapter.

(1) <u>Class I: Electrical Contractor's License</u>. The applicant must establish a regular ongoing place of business, obtain a current city business license, supervise or perform electrical work, have a minimum of five (5) years' total full-time experience in the electrical craft, have demonstrated competency, honesty, and integrity in the performance of electrical work, have obtained a passing score on the written examination required by § 12-410 and must evidence honesty and integrity in former dealings with the public as demonstrated by at least three (3) favorable work references from employers or clients starting with most recent employers or clients and progressing back to cover a five-year period. The applicant must have and keep current the bond and insurance specified in § 12-310.

(2) <u>Class II: Residential Electrical Contractors License</u>. The applicant must establish a regular ongoing place of business, obtain a current city business license, be a person, firm or corporation, other than a Class I Electrical Contractor, who engages in the actual installation of electrical wiring and fixtures in residential dwellings not exceeding three (3) stories, who has at least four (4) years' total full-time experience in the electrical craft, has obtained a passing score on the written examination required by § 12-410, and must evidence honesty and integrity in former dealings with the public by at least three (3) favorable work references from former employers or clients, starting with most recent employers or clients and progressing back to cover a four-year period. The applicant must have and keep current the bond and insurance specified in § 12-310.

(3) <u>Class III: Maintenance Electrician</u>. The applicant must be any individual other than a licensed Class I, II or IV Electrical Contractor, who engages in the actual electrical maintenance and/or repair at his or her place of employment, who has at least 2 years' total full time experience in repairing and maintaining the types of electrical equipment at his or her place of employment, has demonstrated competency, honesty, and integrity in the performance of electrical work, has obtained a passing score on the written examination required by § 12-410, and must evidence competency and experience with the particular equipment at his or her place of employment by furnishing training certificates on the equipment to be maintained, reference letter(s) from supervisor(s) indicating such knowledge and experience, and/or appearing before the board for an interview.

(4) <u>Class IV: Appliance Electrical Contractor</u>. The applicant must be any individual other than a licensed electrical contractor or licensed journeyperson electrician, who engages in the actual installation, maintenance and/or repair of electrical appliances, has at least two (2) years' total full-time experience in the installation, maintenance, and repair of appliances, has demonstrated competency, honesty, and integrity in the performance of such work, and has obtained a passing score on the written examination § 12-410, and must evidence honesty and integrity in his or her former dealings with the public as demonstrated by at least three (3) favorable work references from former clients or employers, starting with most recent employers or clients and progressing back to cover a two-year period. The applicant must have and keep current the bond and insurance specified by § 12-310.

(5) <u>Master Electrician Certificate</u>. The applicant must have a minimum of five (5) years' total full time experience in the electrical craft, have demonstrated competency, honesty, and integrity in the performance of electrical work, have obtained a passing score on the written examination required by § 12-410, and must evidence honesty and integrity in his or her former dealings with the public as demonstrated by at least three (3) favorable

work references from former employers or clients, starting with most recent employers or clients and progressing back to cover a two-year period.

A Master Electrician Certificate may be converted to a Class I license by compliance with § 12-310.

(6) <u>Journeyperson Electrician's Certificate</u>. The applicant must be an individual, other than a Master Electrician Certificate holder, who engages in the actual installation, alteration, repair or renovation of electrical work, who has at least four (4) years' total full-time experience in the electrical craft, has demonstrated competency, honesty, and integrity in the performance of electrical work, has obtained a passing score on the written examination required by § 12-410, and must evidence honesty and integrity in work dealings as demonstrated by at least three (3) favorable references from current and former employers starting with most recent employers or clients and progressing back to cover a four-year period.

A Journeyperson Electrician Certificate may be converted to a Class I license by compliance with § 12-310. (Ord. #14-95, Aug. 1995, § 12)

12-505. <u>Public hearing on application for Class I, II and IV</u> <u>licenses and Master Electrician Certificate and Journeyperson</u> <u>Electrician's Certificate</u>. The board shall conduct a public hearing before a license is issued under this chapter to a Class I Electrical Contractor, Class II Residential Electrical Contractor, Class IV Appliance Electrical Contractor, and before a certificate is issued under this chapter to a Master or Journeyperson Electrician. Such hearing shall be announced in a newspaper of general circulation at least ten (10) days prior to the date of the scheduled hearing. The announcement shall state the time, date, and place of hearing, and the name of the contractor as follows:

"On (<u>Date and Location</u>) there will be a hearing before the Board of Electrical Examiners of the City of Oak Ridge on a petition by (<u>Applicant's Name</u>) for a license to operate as a (Class I Electrical Contractor, Class II Residential Electrical Contractor, Class IV Appliance Electrical Contractor or to obtain a Master or Journeyperson's Electrical Certification) in the City of Oak Ridge. Any person who as a result of former dealings with (<u>Applicant's Name</u>) has reason to doubt his/her integrity or honesty or has a complaint about workmanship is urged to come forward at the above time and place and announce such information. Evidence reviewed in the public hearing will be considered in determining the competency, integrity, and honesty of applicants." (Ord. #95-14, Aug. 1995, § 12, as amended by Ord. #14-06, Aug. 2006)

12-506. <u>License to be obtained thirty days after meeting minimum</u> <u>licensing requirements; exception</u>. An applicant for a license under this chapter must obtain the license within thirty (30) days after successfully meeting all licensing requirements or this application will be null and void; provided, however, in the event of possible extenuating circumstances affecting an individual, a maximum period of ninety (90) days may be allowed for compliance with this section. (Ord. #95-14, Aug. 1995, § 12)

12-507. <u>Fees</u>. Fees for electrical examinations shall be established by the city manager. Fees for licenses and certificates granted or renewed under this chapter shall be established by the city manager. No examination shall be given or license granted until such fees have been paid. (Ord. #95-14, Aug. 1995, § 12)

12-508. <u>Issuance generally</u>. The city manager shall issue an appropriate license or certificate under this chapter to each person, firm, or corporation who:

(1) Meets the qualifications therefor, pays the necessary fees, and who successfully passes the examination given by the board, or

(2) Holds a current and valid State of Tennessee Electrical Contractors license issued after May 11, 1992.

The board shall notify the city manager of all persons, firms or corporations who are eligible for issuance of a license or certificate. (Ord. #95-14, Aug. 1995, § 12)

12-509. <u>Issuance by reciprocity</u>. Any person not licensed under this chapter who exhibits a valid and effective license issued by a lawfully organized board of electrical examiners or similar licensing body of another city in the United States having a standard of requirements equal or superior to that of this city which board or body grants reciprocity to persons issued licenses by this city, shall be issued a license under this chapter without an examination, if such person otherwise meets the requirements of this chapter, for which the city shall collect a fee as established by the city manager for Class I Electrical Contractors, Class II Residential Electrical Contractors, Class IV Electrical Appliance Contractors and for Master and Journeyperson certificates. The renewal fees for licenses issued under this section shall be as provided in § 12-513. The board may waive the requirement that the licensing body from another jurisdiction grant reciprocity to persons issued licenses by the City of Oak Ridge where such other jurisdiction is outside a 100-mile radius from the city. (Ord. #95-14, Aug. 1995, § 12)</u>

12-510. <u>License contents</u>. Each certificate for a license issued in accordance with the provisions of this chapter shall specify the name of the person who has passed the examination, and, in the case of Class I Electrical Contractors, Class II Residential Electrical Contractors, and Class IV Electrical Appliance Contractors, the name of the person, firm or corporation the qualified person is employed by. Class III Maintenance Electrician license certificates shall be issued only to individuals. (Ord. #95-14, Aug. 1995, § 12)

12-511. <u>Work authorized</u>. (1) <u>Class I Electrical Contractor's License</u>. A Class I Electrical Contractor's License shall entitle the person, firm or corporation to whom it is issued to contract for, supervise, and engage in any type of electrical work within the city.

(2) <u>Class II Residential Electrical Contractor's License</u>. A Class II Residential Electrical Contractor's License shall entitle the person, firm or corporation to whom it is issued to contract for and to engage in the business of electrical work for residential dwellings not exceeding three (3) stories in height and four (4) dwelling units. For the purpose of this section, residential dwellings shall not include motels, hotels, health care facilities, retirement centers, and other such similar facilities.

(3) <u>Class III Maintenance Electrician's License</u>. A Class III Maintenance Electrician's License shall entitle the individual to whom it is issued to be able to engage in the maintenance and repair of the following existing building electrical systems: light fixture components, convenience outlets, switches, cords and plugs on portable electrical equipment, and water heater electrical components.

Additional building electrical systems may be included by showing certification, experience and/or interview with the electrical board. Examples of additional electrical systems include, but are not limited to, the following HVAC, and installed unique and standardized industrial systems such as machine tools.

A Class III Maintenance Electrician License is issued to an individual employed at a specific company to perform electrical maintenance work at that company and as such is not transferable.

(4) <u>Class IV Appliance Electrical Contractor</u>. A Class IV Appliance Electrical Contractor shall be able to engage in the installation, maintenance, repair and electrical hookup of electrical appliances, making all required connections thereto, including the installation of any new circuit that may be required between the appliance and main panel having adequate capacity. (Ord. #14-95, Aug. 1995, § 12)

12-512. <u>Display</u>. Every holder of a license under this chapter shall keep his or her license certificate displayed in a conspicuous place in his or her principal place of business or employment. (Ord. #14-95, Aug. 1995, § 12)

12-513. <u>Expiration and renewal</u>. All licenses and certificates issued by the board under this chapter shall be issued for a period of twelve (12) months beginning July 1st of each year and shall expire on June 30th of the following year. Licenses and certificates may be renewed upon payment of the fee established by the city manager. If the license or certificate has not been renewed within one year following the date of expiration, the complete application process must be repeated, including repeating and passing the examination. The license or certificate must be renewed by the person, firm or corporation in whose name it was issued. (Ord. #14-95, Aug. 1995, § 12)

12-514. <u>Disciplinary action</u>. (1) The board is hereby authorized to reprimand, suspend for up to one year, or to revoke any license issued under this chapter:

(a) If the license was obtained through nondisclosure, misstatement, or misrepresentation of a material fact;

(b) For conviction of a violation of The Electrical Code of the City of Oak Ridge where the conduct in such violation constituted a serious threat to the public safety;

(c) For repeated violations of The Electrical Code of the City of Oak Ridge; provided a reprimand or suspension of up to ninety (90) days may be issued for any violation of The Electrical Code;

(d) For civil fraud or intentional misrepresentation in the performance of work for which a license was issued under The Electrical Code of the City of Oak Ridge;

(e) For allowing another to use the licensee's name to obtain permits;

(f) For doing business or work under the license of another or allowing a license to be used by another to do business; or

(g) For the licensed permit holder who has not provided an onsite representative at the job site during the performance of electrical work for which the permit was issued.

(2) Before any disciplinary action is taken against a licensee or certificate holder under this section, the licensee or certificate holder shall have notice in writing, enumerating the charges against him or her and be entitled to a hearing by the board no sooner than ten (10) days from receipt of this notice. The licensee or certificate holder shall be given an opportunity to present relevant testimony, oral or written, and shall have the right to cross-examination, and the right to be represented by an attorney. All testimony shall be given under oath. The board shall have the power to administer oaths, issue subpoenas, and compel the attendance of witnesses for the purpose of hearings on licenses. The decision of the board shall be based upon the evidence produced at the hearing and made a part of the record thereof.

(3) Any person may bring a complaint before the board against a licensee or certificate holder for the purpose set forth in subsection (1). If the board finds a complaint provides a reasonable basis to indicate a reason for disciplinary action under this section, a hearing on the licensee or certificate holder shall be scheduled as set forth in subsection (2) hereof.

(4) A person, firm or corporation whose license or certificate has been revoked under this section shall not be permitted to reapply within one (1) year from the date of revocation, provided the board may waive any or all of such waiting period. (Ord. #14-95, Aug. 1995, § 12)

ELECTRICAL WORK PERMIT

SECTION

- 12-601. When required.
- 12-602. When not required.
- 12-603. Who is entitled to receive.
- 12-604. Fees.
- 12-605. Issuance.
- 12-606. Effect.
- 12-607. Invalidity if work not commenced or is abandoned.
- 12-608. Revocation.

12-601. <u>When required</u>. Except as otherwise provided in § 12-602, all electrical work done in the city, including installing, altering, or repairing any wiring, electric devices and equipment, shall be undertaken only after the issuance of a permit therefor by the city manager or the city manager's designee; provided, however, that emergency repairs and replacements may be made under the condition that a permit therefor shall be obtained within the next five (5) days. (Ord. #14-95, Aug. 1995, § 12)

12-602. <u>When not required</u>. (1) For the purposes of this section, minor "maintenance and repair" is defined as the replacement or repair of existing wiring devices, motors, and equipment.

(2) No permit shall be required under this chapter for work authorized to be performed by a Class III Maintenance Electrician.

(3) No permit shall be required for minor electrical maintenance and repairs.

(4) No permit shall be required for the installation, maintenance or alteration of electric wiring devices, appliances or equipment to be installed by or for an electric public service corporation, for the use of such corporation in the generation, transmission, distribution, or metering of electrical energy, or for the use of such a corporation in the operation of signals or data transmission. (Ord. #14-95, Aug. 1995, § 12)

12-603. <u>Who is entitled to receive</u>. Permits required by this chapter shall be issued only to:

- (1) Class I Electrical Contractors.
- (2) Class II Residential Electrical Contractors.
- (3) Class IV Appliance Electrical Contractors.

(4) Homeowners doing their own work as authorized by § 12-502(1). (Ord. #14-95, Aug. 1995, § 12) Change 4, December 10, 2012

12-604. <u>Fees</u>. The fees for permits required for inspection of new construction shall be established by the city manager. No permit or amendment to a permit shall be valid until such fees have been paid. (Ord. #14-95, Aug. 1995, § 12)

12-605. <u>Issuance</u>. Before issuing a permit under this chapter, the city manager or his or her designee shall determine that the applicant has a current license, or in the case of a homeowner, that he or she has the knowledge and qualifications prescribed by The Electrical Code of the City of Oak Ridge for electrical installation and repair shall collect all fees due, shall see to it that a responsible person is designated as the license holder's on-site representative who is authorized to represent the company for the work to be done under the permit, and shall require plans of the proposed electrical work if necessary. A change in the on-site representative shall require written notification to the city manager or his or her designee. (Ord. #14-95, Aug. 1995, § 12)

12-606. <u>Effect</u>. A permit issued under this chapter shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of The Electrical Code of the City of Oak Ridge, nor shall such issuance of a permit prevent the city manager or his or her designee from thereafter requiring correction of errors in construction, or of violations of The Electrical Code of the City of Oak Ridge. (Ord. #14-95, Aug. 1995, § 12)

12-607. <u>Invalidity if work not commenced or is abandoned</u>. A permit issued under this chapter shall become invalid unless the work authorized by it shall have been commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of one (1) year after the time the work is commenced; provided that, for cause, one or more extensions of time, for periods not exceeding ninety (90) days each may be allowed in writing by the city manager or his or her designee. (Ord. #14-95, Aug. 1995, § 12)

12-608. <u>Revocation</u>. The city manager may revoke a permit issued under the provisions of this chapter, where there has been any false statement or misrepresentation as to a material fact upon which the permit was based, or when the permit has been otherwise erroneously issued. In all such cases, no permit fees shall be refunded. (Ord. #14-95, Aug. 1995, § 12)

PLUMBING CODE--GENERALLY

SECTION

- 12-701. Short title.
- 12-702. Definitions.
- 12-703. Provisions remedial; construction of provisions.
- 12-704. Application of provisions.
- 12-705. Plumbing code adopted.
- 12-706. Plumbing code--amendments.
- 12-707. Appointment of officers, inspectors and employees to administer and enforce code.
- 12-708. Duty of city manager to enforce code; right of entry.
- 12-709. Records.
- 12-710. Restrictions on city employees engaging in plumbing business.
- 12-711. Liability insurance and worker's compensation insurance required for plumbing business.
- 12-712. Connection point for building sewers and water service pipes.
- 12-713. Inspection of new work generally.
- 12-714. Testing drainage and vent systems.
- 12-715. Testing water supply system.
- 12-716. Testing interior leaders or downspouts.
- 12-717. Roughing in inspection of new work.
- 12-718. Final inspection of new work.
- 12-719. Certificate of approval for new work.
- 12-720. Stop work orders.
- 12-721. Periodic inspections of existing installations; notification to repair.
- 12-722. Repair or demolition of defective installations.
- 12-723. Appeals from decisions of city manager.

12-701. <u>Short title</u>. The provisions embraced within chapters 7, 8, 9 and 10 of title 12 of this municipal code shall constitute and be known as, and may be cited as, "The Plumbing Code of the City of Oak Ridge," hereinafter referred to as the "plumbing code." (1969 Code, § 9-119)

12-702. <u>Definitions</u>. For the purposes of the plumbing code, the following definitions shall apply:

(1) "Apprentice" or "helper" is an individual not holding any type of plumbing license employed by a master plumber to assist in plumbing work.

(2) "Board." The term "board" shall mean the Trade Licensing Board created by § 12-301.

(3) "Journeyperson plumber." The words "journeyperson plumber" shall mean any person, other than a master plumber, who is engaged in the

practical installation of plumbing, and who is employed to supervise an individual plumbing job for a master plumber, and who has been issued such a license.

(4) "Maintenance" and "repair." The words "maintenance" and "repair" mean the repair or replacement of existing waste and vent lines and appurtenances thereto.

(5) "Master plumber." The words "master plumber" shall mean a person who has been issued such a license by the city.

(6) "Minor repairs." The words "minor repairs" shall mean only the repairing of faucets, bibs or cocks, and repairs to water pipes and shall not, under any circumstances, include installation of new work or repairs to waste and vent lines. (1969 code, § 9-120, as amended by Ord. #4-11, March 2011)

12-703. <u>Provisions remedial; construction of provisions</u>. The provisions of the plumbing code are hereby declared to be remedial, and shall be construed to secure the beneficial interest and purposes thereof, which are health, sanitation and general public safety and welfare, by regulating the installation and maintenance of all plumbing work in the city. (1969 Code, \S 9-121)

12-704. <u>Application of provisions</u>. The provisions of the plumbing code shall apply to and govern plumbing, as defined in the plumbing code, including the practice, materials, and fixtures used in the installation, maintenance, extension, and alteration of all piping, fixtures, appliances, and appurtenances in connection with any of the following: sanitary drainage of storm drainage facilities, the venting system, and the public or private water supply systems within or adjacent to any building or other structure or conveyance; also the practice and materials used in the installation, maintenance, extension, or alteration of the storm, water or sewerage system of any premises in their connection with any point of public disposal or other terminal. (1969 Code, \S 9-122)

12-705. <u>Plumbing code adopted</u>. The <u>International Plumbing Code</u>, 2012 edition, is hereby adopted by reference and shall become a part of the plumbing code as if copied herein verbatim, except as such code may be in conflict with other provisions of the plumbing code, in which event such other provisions shall prevail. (Ord. #15-00, Aug. 2000, § 1, as replaced by Ord. #6-08, Jan. 2008, and Ord. #13-2012, Oct. 2012)

12-706. <u>Plumbing code--amendments</u>. The <u>International Plumbing</u> <u>Code</u> as adopted by § 12-705 is amended as set out in this section.

All references to section numbers in the text of this section shall be construed as if followed by the words "of the <u>International Plumbing Code</u>," unless the context clearly indicates otherwise. Section 101.1 Title.

Insert "City of Oak Ridge, Tennessee" for name of jurisdiction. Section 305.4.1 Sewer depth.

Insert "twelve" in both places for the number of inches, and delete all references to "(mm)."

Section 903.1 Roof extension.

Insert "twelve" in place of the number of inches, and delete the first reference to "(mm)." (Ord. #15-00, Aug. 2000, § 2, as replaced by Ord. #6-08, Jan. 2008, and Ord. #13-2012, Oct. 2012)

12-707. <u>Appointment of officers, inspectors and employees to</u> <u>administer and enforce code</u>. The city manager shall appoint such number of officers, inspectors, assistants, and other employees as shall be authorized from time to time in order to promote the public safety and to administer and enforce the provisions and intent of the plumbing code. All persons so appointed shall be experienced in the plumbing craft and fully qualified to perform the assigned duties. (1969 Code, § 9-124)

12-708. Duty of city manager to enforce code; right of entry. The city manager or his or her designee shall enforce the provisions of the plumbing code and such persons, consistent with any constitutional limitations, may enter any building, structure or premises in the city to perform any duty imposed by the plumbing code. (1969 Code, § 9-125)

12-709. <u>**Records</u>**. The city manager or his or her designee shall keep or cause to be kept records of the administration and enforcement of the plumbing code. (1969 Code, § 9-126)</u>

12-710. <u>Restrictions on city employees engaging in plumbing</u> <u>business</u>. No officer or employee of the city charged with the duty of enforcing the plumbing code, except one whose connection is as a member of the board of plumbing examiners established by the plumbing code, shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration or maintenance of plumbing installations or in the making of plans or of specifications therefor, unless he or she is owner of the building involved. No such offer or employee shall engage in any work which is inconsistent with his or her duties or with the interests of the city. (1969 Code, § 9-127)

12-711. <u>Liability insurance and worker's compensation insurance</u> <u>required for plumbing business</u>. (1) Every person engaged in the business of plumbing in the city shall present evidence of liability insurance and/or assurance with coverage in an amount acceptable to the city manager. Change 4, December 10, 2012

(2) Every person engaged in the business of plumbing in the city shall present evidence of workers' compensation insurance in compliance with state regulations. (Ord. #14-03, July 2003)

12-712. <u>Connection point for building sewers and water service</u> **pipes**. Building sewers and water service pipes shall connect to the public sewer and water main at a point designated by the proper municipal authority. (1969 Code, § 9-131)

12-713. <u>Inspection of new work generally</u>. All new plumbing work and such portions of existing systems as may be affected by new work or any changes shall be inspected by the city manager or his or her designee to ensure compliance with all of the requirements of the plumbing code. (1969 Code, § 9-132)

12-714. <u>Testing drainage and vent systems</u>. (3) <u>Generally</u>. All the piping of the plumbing system for which a permit has been issued under the plumbing code shall be tested with water or air. After the plumbing fixtures have been set and their traps filled with water, the entire drainage systems shall be submitted to final tests. The city manager or his or her designee may require the removal of any cleanouts, to ascertain if the pressure has reached all parts of the system.

(4) <u>Water test</u>. The water test shall be applied to the drainage system either in its entirety or in sections. If applied to the entire system, all openings in the piping shall be tightly closed, except the highest opening, and if the system is tested in sections, each opening shall be tightly plugged, except the highest opening of the section under test, and each section shall be filled with water, but no section shall be tested with less than a ten-foot head of water. In testing successive sections, at least the upper ten (10) feet of the next preceding section shall be tested, so that no joint or pipe in the building (except the uppermost ten (10) feet of the system) shall have been submitted to a test of less than a ten-foot head of water. The water shall be kept in the system, or in the portion under test, for at least fifteen (15) minutes before inspection starts. The system shall then be tight at all points.

(5) <u>Air test</u>. The air test shall be made by attaching an air compressor or testing apparatus to any suitable opening and, after closing all other inlets and outlets to the system, forcing air into the system until there is a uniform gauge pressure of five (5) pounds per square inch or sufficient to balance a column of mercury ten (10) inches in height. This pressure shall be held without introduction of additional air for a period of at least fifteen (15) minutes.

(6) <u>Final testing methods</u>. The final test of the completed drainage and vent system shall be visual and in sufficient detail to ensure that the provisions of the plumbing code have been complied with; provided, however, for cause, the plumber may be required to subject the plumbing to either a smoke

red, it shall be made

or peppermint test. Where the smoke test is preferred, it shall be made by filling all traps with water and then introducing into the entire system a pungent, thick smoke produced by one or more smoke machines. When the smoke appears at stack openings on the roof they shall be closed and a pressure equivalent to a one-inch water column shall be built and maintained for fifteen (15) minutes before inspection starts. When the peppermint test is preferred, two (2) ounces of oil of peppermint shall be introduced for each line or stack. (1969 Code, \S 9-133)

12-715. <u>Testing water supply system</u>. Upon completion of a section or of the entire water supply system, it shall be tested and proved tight under air or water pressure test. The water used for tests shall be obtained from a potable source of supply. (1969 Code, § 9-134)

12-716. <u>Testing interior leaders or downspouts</u>. Leaders or downspouts and branches within a building shall be tested by water or air in accordance with § 12-715. (1969 Code, § 9-136)

12-717. <u>Roughing-in inspection of new work</u>. When any part of a plumbing installation is to be hidden from view by the permanent placement of parts of the building, the person installing the plumbing installation shall notify the city manager or his or her designee and such parts of the plumbing installation shall not be concealed until they have been inspected and tested by the city manager or his or her designee. On large installations where the concealment of parts of plumbing proceeds continuously, the person installing the plumbing shall notify the city manager or his or her designees or her designee so that he or she can make inspections and tests periodically during the progress of the work. (1969 Code, § 9-137)</u>

12-718. <u>Final inspection of new work</u>. Upon satisfactory completion of the work authorized by a permit issued under the plumbing code, it shall be the duty of the person installing the same to notify the city manager or his or her designee who shall inspect the completed installation. (1969 Code, § 9-138)

12-719. <u>Certificate of approval of new work</u>. If the completed plumbing installation inspected and tested in accord with the plumbing code is found to be fully in compliance with the provisions of the plumbing code, the city manager or his or her designee shall issue a certificate of approval for the installation. (1969 Code, § 9-139)

12-720. <u>Stop work orders</u>. Upon notice from the city manager or his or her designee that work on any plumbing installation is being done contrary to the provisions of the plumbing code or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be

given to the owner of such property, or to his or her agent, or the person doing the work, and shall state the conditions under which work may be resumed. Where any emergency exists, oral notice given by the city manager or his or her designee shall be sufficient, but it shall be immediately followed by a written notice. (1969 Code, § 9-140)

12-721. Periodic inspections of existing installations; notification to repair. The city manager or his or her designee, at his or her discretion, shall periodically make a thorough reinspection of plumbing installations now installed or that may hereafter be installed within the city and within the scope of the plumbing code, and when the installation of any such plumbing is found to be in a dangerous or unsafe condition which may adversely affect public health, the person owning, using, or operating the same shall be notified in writing and shall make the necessary repairs or changes required to place such pipe, devices, and equipment in safe condition and have such work completed within fifteen (15) days or any longer period specified by the city manager or his or her designee in such notice. (1969 Code, § 9-141)

12-722. <u>Repair or demolition of defective installations</u>. Any plumbing installations, regardless of type, which are unsafe, or which constitute a hazard to human life, health, or welfare are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition as the city manager or his or her designee directs in compliance with the provisions of this section, provided where such dangerous or defective condition constitutes an immediate hazard to human health, safety, or welfare, immediate repair or abatement may be required. (1969 Code, § 9-142)

12-723. <u>Appeals from decisions of city manager</u>. (1) Whenever the city manager or his or her designee shall reject or refuse to approve the mode or manner of construction proposed to be followed, or materials to be used, or when it is claimed that the provisions of the plumbing code do not apply, or than an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of the plumbing code or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his or her duly authorized agent, may appeal from the decision of the city manager or his or her designee to the board of building code appeals. Notice of appeal shall be in writing and filed within sixty (60) days after the decision is rendered by the city manager or his or her designee. A fee of twenty dollars (\$20.00) shall accompany such notice of appeal, which shall be returned to the appellant if successful.

(2) In case of a condition which, in the opinion of the city manager or his or her designee, is unsafe or dangerous, the city manager or his or her

designee may, in his or her order, limit the time for such appeal to a shorter period.

(3) Appeals under this section shall be on forms provided by the city manager or his or her designee. (1969 Code, § 9-143)

PLUMBER'S LICENSE¹

SECTION

- 12-801. Required; exceptions.
- 12-802. Application.
- 12-803. Qualifications of applicant; master's license.
- 12-804. Qualifications of applicant; journeyperson's license.
- 12-805. Public hearing on application for master's license.
- 12-806. To be obtained with thirty days after meeting minimum licensing requirements; exception.
- 12-807. Fees.
- 12-808. Issuance.
- 12-809. Issuance by reciprocity.
- 12-810. Contents.
- 12-811. Work authorized.
- 12-812. Display.
- 12-813. Expiration and renewal.
- 12-814. Disciplinary action.

12-801. <u>**Required: exceptions.**</u> (1) No person shall engage in the business of installing, altering or repairing plumbing within the city unless such person shall have received a master plumber's license and a certificate therefor, or a journeyperson plumber's license and a certificate therefor, issued in accord with this chapter.

(2) Any firm, corporation, or legal entity engaged in the plumbing business shall have employed, to supervise the work being engaged in, an employee with a master plumber's license. The employee of such firm or corporation shall be examined and shall obtain a certificate as a master plumber, and anyone who does plumbing work for such firm or corporation, either as a master plumber or as a journeyperson plumber, must be licensed as set forth in this chapter, and any apprentice or helper doing plumbing work must be supervised as set forth in this chapter.

When the person supervising plumbing contract work for a firm or corporation leaves the firm or corporation, the firm or corporation shall engage in no more plumbing work until an examination has been passed by another

¹The section numbers comprising the former chapter 8 "Board of Plumbing Examiners" (1969 Code, §§ 9-151--9-159, as deleted by Ord. #4-11, March 2011), as well as an amendment to § 12-808 (replaced by Ord. #3-10), was deleted in its entirety and the remaining chapters 9-13 were moved up and renumbered.

eligible employee or the owner, or until another person possessing the necessary license is employed by the firm or corporation to supervise the work.

(3) Any regularly employed individual acting as a maintenance person incidental to and in connection with work on the premises of the business in which he or she is employed, and who is not engaged in the occupation of plumbing contracting for the general public, shall be required to have a master plumber's or journeyperson plumber's license.

(4) Any person doing his or her own work personally, in a single-family dwelling used exclusively for living purposes, and who is the bona fide owner of and occupies or will occupy such dwelling, and who personally purchases all material and performs all labor in connection therewith, shall not be required to have a license under this chapter. Such privilege does not convey the right to violate any of the provisions of the plumbing code, nor is it to be construed as exempting any such owner from obtaining a permit, except for minor repairs, and paying the required fees therefor.

(5) Apprentice plumbers or plumber helpers are not required to have a license under this chapter. However, they will only be allowed to work under the "on the job" supervision of a licensed master plumber or journeyperson plumber.

(a) "On the job supervision" means the master plumber or journeyperson plumber must be physically upon the premises of the job site at all times the apprentice or helper is performing plumbing work.

(b) For purposes of this subsection, "upon the job site" means upon the parcel for which the permit was issued, or upon an adjoining or contiguous parcel if the master plumber is also performing work under permit on such adjacent or adjoining parcel.

(6) Any employee of the city or city school system employed after June 1, 1988, to do plumbing work for the city or school system shall have a master plumber's or journeyperson plumber's license. (1969 Code, § 9-165, as renumbered by Ord. #4-11, March 2011)

12-802. <u>Application</u>. Any person desiring a license required by this chapter shall apply therefor to the board, in writing, stating the type of license applied for, his or her name and place of business, and the name of the supervisor of work to be done under the license. (1969 Code, § 9-166, as renumbered by Ord. #4-11, March 2011)

12-803. Qualifications of applicant--master's license. Subject to the authority of the board to set higher standards with city council approval, the following minimum standards and qualifications shall be met before the board grants a license to a master plumber: the applicant must be an individual who has a regular place of business; has supervised or performed plumbing work; has a minimum of five (5) years of total fulltime experience in the plumbing craft; has demonstrated competency, honesty and integrity in the performance of

plumbing work; has passed the written examination prescribed in § 12-808; and has evidenced honesty and integrity in his or her former dealings with the public as demonstrated by at least three (3) favorable work references from former employers or persons for whom the applicant has performed plumbing work, such persons or employers to be selected at random by the board from a list submitted by the applicant. (1969 Code, § 9-167, as renumbered by Ord. #4-11, March 2011)

12-804. Qualifications of applicant--journeyperson's license. Subject to the authority of the board to set higher standards with city council approval, an applicant for a journeyperson plumber's license must be an individual other than a licensed master plumber, who engages in the actual installation, alteration, repair or renovation of plumbing work; who has at least three (3) years of total fulltime experience in the plumbing craft; who has demonstrated competency, honesty and integrity in the performance of plumbing work; who has passed the written examination prescribed in § 12-808; and who must evidence honesty and integrity in his or her work dealings as demonstrated by favorable references from current and former employers.

All plumbing licenses issued and in effect or approved to be issued prior to June 1, 1988 are valid and shall remain effective subject to the other provisions of the plumbing code. (1969 Code, § 9-168, as renumbered by Ord. #4-11, March 2011)

12-805. <u>Public hearing on application for master's license</u>. The board shall conduct a public hearing before a license is issued under this chapter to a master plumber. Such hearing shall be announced in a newspaper of general circulation at least ten (10) days prior to the date of the scheduled hearing. The announcement shall state the time, date and place of hearing, and the name of the applicant in words as follows:

"On ______at ______there will be a hearing before the Board of Plumbing Examiners of the City of Oak Ridge on a petition by ______for a license to operate as a Master Plumber in the City of Oak Ridge. Any person who as a result of former dealings with ______ has reason to doubt his or her integrity or honesty or has a complaint about workmanship is urged to come forward at the above time and place and announce such information. Evidence reviewed in the public hearing will be considered in determining the competency, integrity and honesty of applicants." (1969 Code, § 9-169, as amended by Ord. #14-06, Aug. 2006, and renumbered by Ord. #4-11, March 2011)

12-806. <u>To be obtained within thirty days after meeting minimum</u> <u>licensing requirements; exception</u>. An applicant for a license under this chapter must obtain the license within thirty (30) days after successfully meeting all licensing requirements or this application will be null and void; provided, however, in the event of possible extenuating circumstances affecting an individual, a maximum period of ninety (90) days may be allowed for compliance with this section. (1969 Code, § 9-169.1, as renumbered by Ord. #4-11, March 2011)

12-807. <u>Fees</u>. Fees for plumbing examinations and licenses granted or renewed under this chapter shall be established by the city manager as provided for under § 1-203 of this municipal code. No examination shall be given or license granted until such fees have been paid. (1969 Code, § 9-170, as renumbered by Ord. #4-11, March 2011)

12-808. <u>Issuance</u>. The city manager shall issue an appropriate license under this chapter to each person who meets the qualifications therefor, pays the necessary fees, and who successfully passes the examination given by the board. The board shall notify the city manager of all persons passing the exam and eligible for issuance of a license. (1969 Code, § 9-171, as renumbered by Ord. #4-11, March 2011)

12-809. <u>Issuance by reciprocity</u>. Any person not licensed under this chapter who exhibits a valid and effective license issued by a lawfully organized board of plumbing examiners or similar licensing body of another city in the United States having a standard of requirements equal or superior to that of this city, and which board or body grants reciprocity to persons issued licenses by this city, shall be issued a license under this chapter without an examination, if such other person otherwise meets the requirements of this chapter, for which the board shall collect a fee of fifty dollars (\$50.00) for master plumbers and twenty-five dollars (\$25.00) for journeyperson plumbers. Such fees shall be prorated or not prorated in accord with the provisions of § 12-807. The renewal fees for licenses issued under this section shall be as provided in § 12-907. The board may waive the requirement that the licensing body from another jurisdiction grant reciprocity to persons issued licenses by the City of Oak Ridge where such other jurisdiction is outside a one hundred (100) mile radius from the city. (1969 Code, § 9-171.1, as renumbered by Ord. #4-11, March 2011)

12-810. <u>Contents</u>. Each certificate for a license issued in accordance with the provisions of this chapter shall specify the name of the person who has passed the examination and, in the case of a master plumber, such person shall be designated in the certificate as the supervisor of all work done under the license. (1969 Code, § 9-172, as renumbered by Ord. #4-11, March 2011)

12-811. <u>Work authorized</u>. (1) A master plumber's license shall entitle the person to whom issued to contract for, supervise and to engage in the business of plumbing work.

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(2) A journeyperson plumber's license shall entitle the person to whom issued to engage in and supervise plumbing work only for a licensed master plumber. (1969 Code, § 9-173, as renumbered by Ord. #4-11, March 2011)

12-812. <u>**Display</u>**. Every holder of a license issued under this chapter shall keep his or her certificate of license displayed in a conspicuous place in his or her principal place of business. (1969 Code, § 9-174, as renumbered by Ord. #4-11, March 2011)</u>

12-813. Expiration and renewal. All licenses issued by the board under this chapter shall expire on December 31 of the year in which issued, but may be renewed upon payment of fees in the amount prescribed in § 12-807. If the license has not been renewed within one year following the date of expiration, the examination must be taken again. The license must be renewed by the person in whose name it is listed. (1969 Code, § 9-175, as renumbered by Ord. #4-11, March 2011)

12-814. <u>Disciplinary action</u>. (1) The board is hereby authorized to reprimand, suspend for up to one year, or to revoke any license issued under this chapter:

(a) If the license was obtained through nondisclosure, misstatement, or misrepresentation of a material fact;

(b) For conviction of a violation of the plumbing code where the conduct in such violation constituted a serious threat to the public safety;

(c) For repeated separate violations of the plumbing code; provided a reprimand or suspension of up to ninety (90) days may be issued for any violation of the plumbing code.

(d) For civil fraud or intentional misrepresentation in the performance of work for which a license was issued under the plumbing code.

(e) For allowing another to use the licensee's name to obtain permits;

(f) For doing business or work under the license of another or allowing a license to be used by another to do business; or

(g) For the licensed permit holder who has not provided "on the job supervision" at all times for an apprentice or helper who is performing plumbing work at the job site for which the permit was issued under the plumbing code, provided that a first offense under this subsection shall be subject to a reprimand or suspension not to exceed seven (7) days.

(2) Before any disciplinary action is taken against a licensee under this section, the licensee shall have notice in writing, enumerating the charges against him or her, and be entitled to a hearing by the board not sooner than ten (10) days from receipt of this notice. The licensee shall be given an opportunity to present relevant testimony, oral or written, and shall have the right to cross

at the hearing and made a part of the record thereof. (3) Any person may bring complaint before the board against a licensee for the purpose set forth in subsection (1) of this section. If the board finds a complaint provides a reasonable basis to indicate a reason for disciplinary action under this section, a hearing on the license shall be scheduled as set forth in subsection (2) hereof.

on licenses. The decision of the board shall be based upon the evidence produced

(4) A person whose license has been revoked under this section shall not be permitted to reapply within one (1) year from the date of revocation. (1969 Code, § 9-176, as renumbered by Ord. #4-11, March 2011)

PLUMBER'S WORK PERMIT

SECTION

- 12-901. Required; exceptions.
- 12-902. Application.
- 12-903. Who entitled to receive.
- 12-904. Issuance.
- 12-905. Effect.
- 12-906. Invalidity if work not commenced or is abandoned.
- 12-907. Revocation.
- 12-908. Fees.

12-901. <u>**Required**</u>; <u>exceptions</u>. (1) No person shall connect any plumbing work with any sewer of the city, sanitary or storm, septic tank or sewage disposal system of any kind, or private connection, or install fixtures or appliances in new or existing plumbing, without first obtaining a permit so to do in accord with this chapter.

(2) Emergency repairs and replacements may be made by a person's authorized to obtain a permit under this chapter, without such permit, under the condition that a permit therefor shall be obtained within the next five (5) days.

(3) No permit shall be required for maintenance and repair work on the premises of a person regularly employing one or more licensed plumbers for the purpose, nor shall a permit be required for "minor repairs" as defined in the plumbing code. (1969 Code, § 9-182, as renumbered by Ord. #4-11, March 2011)

12-902. <u>Application</u>. Application for a permit required by this chapter shall be filed with the city's manager or his or her designee on forms provided for that purpose. The city manager or his or her designee may require such application to be accompanied by plans of the proposed work, if he or she deems it necessary. (1969 Code, § 9-183, as renumbered by Ord. #4-11, March 2011)

12-903. <u>Who entitled to receive</u>. Permits required by this chapter shall be issued only to a master plumber licensed as provided in the plumbing code or to a homeowner doing his or her own work under the conditions prescribed in § 12-801(4). (1969 Code, § 9-184, as renumbered by Ord. #4-11, March 2011)

12-904. <u>Issuance</u>. Before issuing a permit under this chapter, the city manager or his or her designee shall see that the applicant has a current master plumber's license or, in the case of a homeowner, that he or she has the knowledge and qualifications prescribed by the plumbing code for installing and

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repairing plumbing work, collect all fees due, and see to it that the person who takes out the permit will supervise the work to be done under the permit. (1969 Code, § 9-185, as renumbered by Ord. #4-11, March 2011)

12-905. <u>Effects</u>. A permit issued under this chapter shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of the plumbing code, nor shall such issuance of a permit prevent the city manager or his or her designee from thereafter requiring correction of errors in construction, or of violations of the plumbing code. (1969 Code, § 9-186, as renumbered by Ord. #4-11, March 2011)

12-906. <u>Invalidity if work not commenced or is abandoned</u>. Any permit issued under this chapter shall become invalid unless the work authorized by it shall have been commenced within six (6) months after its issuance or if the work authorized by such permit is suspended or abandoned for a period of one year after the time the work is commenced, provided that, for cause, one or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed in writing by the city manager or his or her designee. (1969 Code, § 9-187, as renumbered by Ord. #4-11, March 2011)

12-907. <u>Revocation</u>. The city manager may revoke a permit issued under the provisions of this chapter, in case there has been any false statement or misrepresentation as to a material fact on which the permit was based, or if it has been otherwise erroneously issued. In all such cases no permit fees shall be refunded. (1969 Code, § 9-188, as renumbered by Ord. #4-11, March 2011)

12-908. <u>Fees</u>. The fees for permits required for inspection of new construction shall be determined by the city manager as provided under § 1-203 of this municipal code. No permit or amendments to a permit shall be valid until such fees have been paid. (1969 Code, § 9-189, as renumbered by Ord. #4-11, March 2011)

FIRE CODE

SECTION

12-1001. Fire code.

12-1001. <u>Fire code</u>. The fire code is set forth in title 7 of the Code of Ordinances, City of Oak Ridge. (Ord. #17-00, Aug. 2000, as replaced by Ord. #4-08, Jan. 2008, and renumbered by Ord. #4-11, March 2011)

RESIDENTIAL CODE

SECTION

12-1101. Residential code adopted. 12-1102. Amendments.

12-1101. <u>Residential code adopted</u>. The <u>International Residential</u> <u>Code</u>, 2012 edition, is hereby adopted by reference and shall become a part of this chapter as if copied herein verbatim, except as such code may be in conflict with other provisions of this chapter, in which event such other provisions of this chapter shall prevail. This code shall apply to one- and two-family dwellings as outlined in section R101.2 after adoption of the ordinance comprising this chapter. (Ord. #20-00, Aug. 2000, as replaced by Ord. #8-08, Jan. 2008, renumbered by Ord. #4-11, 2011, and replaced by Ord. #19-2012, Oct. 2012</u>)

12-1102. <u>Amendments</u>. (1) <u>Generally</u>. The <u>International Residential</u> <u>Code</u> is hereby amended as set out in this section. All references to section numbers in the text of this section shall be considered as if followed by the words of the <u>International Residential Code</u>, unless clearly indicated to the contrary. In all places where the <u>International Residential Code</u> requires the insertion of the jurisdiction name, the City of Oak Ridge, Tennessee, shall be inserted.

(2) <u>Titles and designations</u>. Titles and designations used in the <u>International Residential Code</u> shall be changed to conform with the proper city titles and departments as follows:

(a) "Building official" shall mean the city manager or the city manager's designee.

(b) "Board of appeals" shall mean the city's board of building and housing code appeals.

(c) "Chief appointing authority" shall mean city manager.

(d) "Department of law" shall mean city attorney.

(3) <u>Section R103.1. Creation of enforcement agency</u>. Section R103.1 is hereby deleted in its entirety.

(4) <u>Section R105.2. Work exempt from permit</u>. Section R104.2 is hereby amended by deleting all items listed under the heading "building," except for items numbered 6, 7, 8 and 9, which shall remain in their entirety.

(5) <u>Section R106.3.1. Approval of construction documents</u>. Section R106.3.1 is hereby amended by changing the word "approval" to "review" and the word "approved" to "reviewed."

(6) <u>Section R106.3.2. Previous approvals</u>. Section R106.3.2. is hereby amended by changing the word "approvals" to "reviews."

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(7) <u>Section R106.3.3. Phased approval</u>. Section R106.3.3. is hereby amended by changing the word "approval" to "review."

(8) <u>Section R106.4. Amended construction documents</u>. Section R106.4 is hereby amended by changing the word "approval" to "review" and the word "approved" to "reviewed."

(9) <u>Section R112. Board of appeals</u>. Section R112 is hereby deleted in its entirety.

(10) <u>Table R301.2(1)</u>. Climatic and geographic design criteria.

Insert "10 PSF" in the table for Ground Snow Load.

Insert "90" in the table for Wind Speed.

Insert "C" in the table for Seismic Design Category.

Insert "Severe" in the table for Weathering.

Insert "12 inches" in the table for Frost Line Depth.

Insert "Moderate to heavy" in the chart for Termite.

Insert "19 degrees Fahrenheit" in the table for Winter Design Temp.

Insert "No" in the table for Ice Barrier Underlayment Required.

Insert "Anderson County, Tennessee and incorporated areas effective 01-17-07 and

Roane County, Tennessee and incorporated areas effective 09-28-07" in the table for

Flood Hazards.

Insert "250" in the table for Air Freezing Index.

Insert "60" in the table for Mean Annual Temp.

(11) <u>Section R302.2. Townhouses</u>. In the exception change the 1-hour to 2-hour.

(12) <u>Section R302.6 Dwelling/garage fire separation</u>. In table 302.6 change 5/8" type X to 1/2".

(13) <u>Section R302.5.1. Opening protection</u>. In the last sentence put a period after fire-rated doors and delete the remaining text.

(14) <u>Section R311.7.9. Illumination</u>. Change the section number referenced to R303.7.

(15) <u>Section R313. Automatic fire sprinkler systems</u>. Section R313 is hereby deleted in its entirety.

(16) <u>Section R905.2.8.5. Drip edge is hereby deleted in its entirety</u>.

(17) <u>Chapter 11 is hereby deleted in its entirety</u>.

(18) Chapter 24 is hereby deleted in its entirety.

(19) <u>Section P2603.6.1. Sewer depth</u>. Section P2603.6.1 is hereby amended by inserting the number "twelve inches" in two places for the missing number. (as added by Ord. #8-08, Jan. 2008, renumbered by Ord. #4-11, March 2011, and replaced by Ord. #19-2012, Oct. 2012)

ENERGY CONSERVATION CODE

SECTION

12-1201. Energy conservation code adopted.

12-1202. Amendments.

1201. <u>Energy conservation code adopted</u>. The <u>International Energy</u> <u>Conservation Code</u>, 2018 edition, is hereby adopted by reference and shall become a part of this chapter as if copied herein verbatim, and shall be known as the "Energy Conservation Code." (as added by Ord. #14-2012, Oct. 2012, and replaced by Ord. #4-2018, March 2018)

12-1202. Amendments.

- Table R402.1.2 Insulation and Fenestration Requirements by Component.
 In the row for Climate Zone 4 except Marine, change the following: Ceiling R-Value from "49" to "38"; Wood Frame Wall R-Value from "20 or 13+5" to "13"; and Mass Wall R-Value "8/13" to "5/10."
- Table R402.1.4 Equivalent U-Factors. In the row for Climate Zone 4 except Marine, change the following: Ceiling U-Factor from "0.026" to "0.030"; Frame Wall U-Factor from "0.060" to "0.082"; and Mass Wall U-Factor from "0.098" to "0.141."
- (3) Section R402.4 .1.2 Testing.Delete in its entirety without replacement.
- (4) Section R403.3.3 Duct Testing (Mandatory).
 Delete in its entirety without replacement. (as added by Ord. #4-2018, March 2018)

MECHANICAL CODE

SECTION

- 12-1301. Mechanical code adopted.
- 12-1302. Amendments.
- 12-1303. Short title.
- 12-1304. Definitions.
- 12-1305. Provisions remedial; construction of provisions.
- 12-1306. Application of provisions.
- 12-1307. Appointment of inspectors, etc., to administer and enforce provisions.
- 12-1308. Duty of city manager to enforce provisions.
- 12-1309. Records.
- 12-1310. Restrictions on city employees engaging in mechanical business.
- 12-1311. Liability insurance; workers' compensation.
- 12-1312. Inspection of new work generally.
- 12-1313. Roughing-in inspection of new work.
- 12-1314. Final inspection of new work.
- 12-1315. Certificate of approval for new work--generally.
- 12-1316. Certificate of approval for new work--temporary work.
- 12-1317. Stop work order.
- 12-1318. Periodic inspections of existing installation; repair or demolition of unsafe installations.
- 12-1319. Appeals from decisions of city manager.

12-1301. <u>Mechanical code adopted</u>. The <u>International Mechanical</u> <u>Code</u>, 2012 edition, is hereby adopted by reference and shall become a part of the mechanical code as if copied herein verbatim, except as such code may be in conflict with other provisions of the mechanical code, in which event such other provisions shall prevail. (as added by Ord. #20-2012, Oct. 2012, and replaced by Ord. #15-2014, Dec. 2014)

12-1302. <u>Amendments.</u> (1) The <u>International Mechanical Code</u>, as adopted by ordinance, is amended as set out in this section.

(2) In Section 101.1, "Title," of the International Mechanical Code, insert "City of Oak Ridge, Tennessee" for name of jurisdiction. (as added by Ord. #20-2012, Oct. 2012, and replaced by Ord. #15-2014, Dec. 2014)

12-1303. <u>Short title</u>. The provisions embraced within chapters 3, 13, 14 and 15 of this title shall constitute, be known as, and may be cited as "the mechanical code of the City of Oak Ridge." (as added by Ord. #15-2014, Dec. 2014)

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12-1304. <u>Definitions</u>. In the enforcement of chapters 3, 13, 14 and 15 of this title, the following definitions shall apply, unless clearly indicated to the contrary:

(1) "Apprentice" or "helper" is an individual not holding any type of mechanical license, employed by a Class I mechanical contractor, and/or Class II residential mechanical contractor to assist in the performance of mechanical work for which the mechanical contractor is licensed.

(2) "Board." The term "board" shall mean the trade licensing board created by city code § 12-301.

(3) "City manager" means the City Manager for the City of Oak Ridge, Tennessee, or the city manager's duly authorized designee.

(4) "Class I: mechanical contractor." The words "Class I mechanical contractor" shall mean a person, firm or corporation who has been issued such a license and certificate by the City of Oak Ridge. A Class I mechanical contractor can engage in mechanical work on commercial and residential buildings with a job cost not exceeding twenty-five thousand dollars (\$25,000.00).

(5) "Class II: residential mechanical contractor." The words "Class II residential mechanical contractor" shall mean a person, firm or corporation who has been issued such a license and certificate by the City of Oak Ridge. A Class II mechanical contractor can engage in mechanical work on residential buildings with up to four units and a job cost not exceeding twenty-five thousand dollars (\$25,000.00).

(6) "On-site representative" is either the qualifying party or his or her on-site designee who is the on-site authorized company representative.

(7) "Qualified person" is an individual who has taken and passed the required mechanical examination from the appropriate examining authority and shall be responsible for all work performed under the license. (as added by Ord. #15-2014, Dec. 2014)

12-1305. Provisions remedial: construction of provisions. The provisions of the mechanical code of the City of Oak Ridge are hereby declared to be remedial, and shall be construed to secure the beneficial interest and purposes, which are general public safety and welfare, by regulating the installation and maintenance of all mechanical work in the city. (as added by Ord. #15-2014, Dec. 2014)

12-1306. <u>Application of provisions</u>. The provisions of chapters 3, 13, 14 and 15 of this title, shall apply to every mechanical installation, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy related systems, within the city. (as added by Ord. #15-2014, Dec. 2014)

12-1307. <u>Appointment of inspectors, etc., to administer and</u> <u>enforce provisions</u>. The city manager shall appoint such number of officers, inspectors, assistants and other employees as shall be authorized from time to time in order to promote the public safety and to administer and enforce the provisions and intent of the mechanical code of the City of Oak Ridge. All persons so appointed shall be experienced in the mechanical craft and fully qualified to perform their assigned duties. (as added by Ord. #15-2014, Dec. 2014)

12-1308. Duty of city manager to enforce provisions. The city manager shall enforce the provisions of the mechanical code of the City of Oak Ridge, and such persons, consistent with any constitutional limitations, may enter any building to perform his or her official duties. (as added by Ord. #15-2014, Dec. 2014)

12-1309. <u>**Records.</u>** The city manager shall keep or cause to be kept records of the administration and enforcement of the mechanical code of the City of Oak Ridge. (as added by Ord. #15-2014, Dec. 2014)</u>

12-1310. <u>Restrictions on city employees engaging in mechanical</u> <u>business</u>. No officer or employee of the City charged with the duty of enforcing the mechanical code of the City of Oak Ridge shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration or maintenance of mechanical installations or in the making of plans or of specifications therefor, unless he or she is owner of the building involved. No such officer or employee shall engage in any work which is inconsistent with his or her duties or with the interest of the city. (as added by Ord. #15-2014, Dec. 2014)

12-1311. <u>Liability insurance; workers' compensation</u>. All mechanical contractors who have been issued a Class I or II license must meet the following requirements:

(1) <u>Liability insurance required for mechanical contracting business</u>. Every person, firm or corporation engaged in the business of mechanical contracting in the city shall present evidence of liability insurance and/or assurance with coverage in an amount acceptable to the city manager.

(2) <u>Workers' compensation insurance</u>. Every person, firm or corporation engaged in the business of mechanical contracting in the city shall present evidence of workers' compensation insurance in compliance with state regulations. (as added by Ord. #15-2014, Dec. 2014)

12-1312. <u>**Inspection of new work generally.**</u> All new mechanical work and such portions of existing systems as may be affected by new work or any changes shall be inspected to ensure compliance with all of the requirements of

the mechanical code of the City of Oak Ridge. (as added by Ord. #15-2014, Dec. 2014)

12-1313. <u>Roughing-in inspection of new work</u>. When any part of a mechanical system installation is to be hidden from view by the permanent placement of parts of the building, the person installing the mechanical system shall notify the city manager and such parts of the mechanical system installation shall not be concealed until they have been inspected and approved by the city manager. On large installations where concealment of parts of mechanical system proceeds continuously, the person installing the mechanical system shall notify the city manager so that he or she can make inspections periodically during the progress of the work. (as added by Ord. #15-2014, Dec. 2014)

12-1314. Final inspection of new work. Upon the completion of the work which has been authorized by issuance of a permit under the mechanical code of the City of Oak Ridge, It shall be the duty of the person installing the same to notify the city manager who shall inspect the completed installation. (as added by Ord. #15-2014, Dec. 2014)

12-1315. <u>Certificate of approval for new work--generally</u>. If the completed mechanical installation inspected pursuant to this chapter is found to be fully in compliance with the provisions of the mechanical code of the City of Oak Ridge, the city manager shall issue a certificate of approval. (as added by Ord. #15-2014, Dec. 2014)</u>

12-1316. <u>Certificate of approval for new work--temporary work</u>. When a certificate of approval is issued authorizing the connection and use of temporary work, such certificate shall be issued to expire at a time to be stated therein and shall be revocable by the city manager for cause. (as added by Ord. #15-2014, Dec. 2014)</u>

12-1317. <u>Stop work order</u>. Upon notice from the city manager that work or any mechanical installation is being done contrary to the provisions of the mechanical code of the City of Oak Ridge or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of such property, or to his or her agent or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, oral notice given by the city manager shall be sufficient but it shall be immediately followed by written notice. (as added by Ord. #15-2014, Dec. 2014)

12-1318. <u>Periodic inspections of existing installation; repair or</u> <u>demolition of unsafe installations</u>. (1) The city manager, at his or her discretion, shall periodically make a thorough re-inspection of the installation of all mechanical systems including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy related systems now installed or that may hereafter be installed within the city and within the scope of the mechanical code of the City of Oak Ridge, and when the installation of any such mechanical system is found to be in a dangerous or unsafe condition, the person owning, using, or operating the same shall be notified in writing and shall make the necessary repairs or changes required to place such mechanical system in safe condition and have such work completed with fifteen (15) days or any longer period specified by the city manager in such notice.

(2) All mechanical installations, regardless of type, which are unsafe, or which constitute a hazard to human life, health or welfare, are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition as the city manager directs in compliance with the provisions of this section, provided where such dangerous or defective condition constitutes an immediate hazard to human health, safety, or welfare, immediate repair or abatement may be required. (as added by Ord. #15-2014, Dec. 2014)

12-1319. <u>Appeals from decisions of city manager</u>. (1) Whenever the city manager shall reject or refuse to approve the mode or manner of construction proposed to be followed, or materials to be used, or when It is claimed that the provisions of the mechanical code of the City of Oak Ridge do not apply, or that an equally good or more desirable fonn of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of the mechanical code of the City of Oak Ridge or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such building or structure, or his or her duly authorized agent, may appeal from the decision of the city manager or his or her designee to the board of building code appeals. Notice of appeal shall be in writing and filed within sixty (60) days after the decision is rendered by the city manager.

(2) In case of a condition which, in the opinion of the city manager or the city manager's designee is unsafe or dangerous, the city manager may, in his or her order, limit the time for such appeal to a shorter period.

(3) Appeals under this section shall be on forms provided by the city manager. (as added by Ord. #15-2014, Dec. 2014)

LICENSES FOR MECHANICAL CONTRACTORS

SECTION

- 12-1401. Required--generally.
- 12-1402. Exceptions.
- 12-1403. Application.
- 12-1404. Qualifications of applicant.
- 12-1405. Public hearing on application for Class I and Class II mechanical contractor licensing.
- 12-1406. License to be obtained thirty days after meeting minimum licensing requirements: exception.
- 12-1407. Fees.
- 12-1408. Issuance generally.
- 12-1409. Issuance by reciprocity.
- 12-1410. License contents.
- 12-1411. Work authorized.
- 12-1412. Display.
- 12-1413. Expiration and renewal.
- 12-1414. Disciplinary action.

12-1401. <u>Required-generally</u>. (1) Except as otherwise provided in city code §12-1402, no person shall engage in the business of installing, altering or repairing, within the city, any mechanical system including ventilating, healing, cooling, air conditioning and refrigeration systems incinerators and other energy related systems, unless such person shall have received a Class I mechanical contractor's license, or a Class II residential mechanical contractor's license, as the case may be depending upon the type of mechanical work contracted for or engaged in, issued in accord with this chapter.

(2) Any firm, corporation, or other such person engaged in the mechanical business shall have employed a qualified person having a Class I mechanical contractor's license, a Class II residential mechanical contractor's license, depending upon the type of work being engaged in by such firm or corporation, and everyone who does any actual mechanical work for such firm or corporation must be licensed or supervised as set forth in this chapter. When the qualified person providing technical expertise for mechanical contract work for a firm or corporation leaves the firm or corporation, the firm or corporation shall have ninety (90) days to employ another qualified person.

(3) Any employee of the city or city school system employed to do mechanical work for the city or school system shall have a Class I mechanical contractor's license. (as reserved by Ord. #14-2012, Oct. 2012, and added by Ord. #15-2014, Dec. 2014)

(1) Any person doing his or her own work personally, in a single-family dwelling used exclusively for living purposes, and who is the bona fide owner of and occupies or will occupy such dwelling, and who personally purchases all materials and performs all labor in connection therewith, shall not be required to have a license under the mechanical code of the City of Oak Ridge. Such privilege does not convey the right to violate any of the provisions of this chapter, nor is it to be construed as exempting any such owner from obtaining a permit, except for minor repairs, and paying the required fees therefor.

(2) Apprentice or mechanical helpers are not required to have a license under this chapter. However, an apprentice or mechanical helper will only be allowed to work for a person, firm or corporation that holds a valid Class I mechanical contractor's license, or a Class II residential mechanical contractor's license as the case may be depending upon the type of mechanical work authorized to be done by such license holder. (as added by Ord. #15-2014, Dec. 2014)

12-1403. <u>Application</u>. Any person, firm or corporation desiring a license or certificate required by this chapter shall apply therefor to the board, in writing, using the forms provided by the city. The application must be filled out completely, legibly, and be dated and signed. Obtaining the verifiable references required by city code §12-1404 is the responsibility of the applicant. The applicant's references shall show broad mechanical experience. (as added by Ord. #15-2014, Dec. 2014)

12-1404. Qualifications of applicant. Subject to the authority of the board to set higher standards with city council approval, the following minimum standards and qualifications shall be met before the board grants a license required by this chapter.

(1) <u>Class I: mechanical contractor's license</u>. The applicant must establish a regular ongoing place of business, obtain a current city business license, supervise or perform mechanical work, have a minimum of five (5) years' total full-time experience in the mechanical craft, have demonstrated competency, honesty, and integrity in the performance of mechanical work, have obtained a passing score on the written examination required by city code §12-1410 and must evidence honesty and integrity in former dealings with the public as demonstrated by at least three (3) favorable work references from employers or clients starting with most recent employers or clients and progressing back to cover a five-year period. The applicant must have and keep current the bond and insurance specified in city code §12-310.

(2) <u>Class II: residential mechanical contractors license</u>. The applicant must establish a regular ongoing place of business, obtain a current city business license, be a person, firm or corporation, other than a Class I

mechanical contractor, who engages in the actual installation of mechanical systems in residential buildings not exceeding four (4) units, who has at least four (4) years' total full-time experience in the mechanical craft, has obtained a passing score on the written examination required by city code §12-1410, and must evidence honesty and integrity in former dealings with the public by at least three (3) favorable work references from former employers or clients, starting with most recent employers or clients and progressing back to cover a four (4) year period. The applicant must have and keep current the bond and insurance specified in city code §12-310. (as added by Ord. #15-2014, Dec. 2014)

12-1405. <u>Public hearing on application for Class I and Class II</u> <u>mechanical contractor licensing</u>. The board shall conduct a public hearing before a license is issued under this chapter to a Class I mechanical contractor, or Class II residential mechanical contractor. Such hearing shall be announced in a newspaper of general circulation at least ten (10) days prior to the date of the scheduled hearing. The announcement shall state the time, date, and place of hearing, and the name of the contractor as follows:

"On (date and location) there will be a hearing before the Trade Licensing Board of the City of Oak Ridge on a petition by (applicant's name) for a license to operate as a (Class I mechanical contractor, or Class II residential mechanical contractor) in the City of Oak Ridge. Any person who as a result of former dealings with (applicant's name) has reason to doubt his/her integrity or honesty or has a complaint about workmanship is urged to come forward at the above time and place and announce such information. Evidence reviewed in the public hearing will be considered in determining the competency, integrity, and honesty of applicants." (as added by Ord. #15-2014, Dec. 2014)

12-1406. License to be obtained thirty days after meeting minimum licensing requirements: exception. An applicant for a license under this chapter must obtain the license within thirty (30) days after successfully meeting all licensing requirements or the application will be null and void; provided, however, in the event of possible extenuating circumstances affecting an individual, a maximum period of ninety (90) days may be allowed for compliance with this section. (as added by Ord. #15-2014, Dec. 2014)

12-1407. <u>Fees</u>. Fees for mechanical examinations shall be established by the city manager. Fees for licenses and certificates granted or renewed under this chapter shall be established by the city manager. No examination shall be given or license granted until such fees have been paid. (as added by Ord. #15-2014, Dec. 2014)

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12-1408. <u>Issuance generally</u>. The city manager shall issue an appropriate license or certificate under this chapter to each person, firm, or corporation who:

(1) Meets the qualifications therefor, pays the necessary fees, and who successfully passes the examination given by the board, or

(2) Holds a current and valid State of Tennessee mechanical contractors license.

The board shall notify the city manager of all persons, firms or corporations who are eligible for issuance of a license or certificate. (as added by Ord. #15-2014, Dec. 2014)

12-1409. <u>Issuance by reciprocity</u>. Any person not licensed under this chapter who exhibits a valid and effective license issued by a lawfully organized board of mechanical examiners or similar licensing body of another city in the United States having a standard of requirements equal. or superior to that of this city which board or body grants reciprocity to persons issued licenses by this city, shall be issued a license under this chapter without an examination, if such person otherwise meets the requirements of this chapter, for which the city shall collect a fee as established by the city manager for Class I mechanical contractors, and Class II residential mechanical contractors. The renewal fees for licenses issued under this section shall be as provided in city code § 2-1413. The board may waive the requirement that the licensing body from another jurisdiction grant reciprocity to persons issued licenses by the City of Oak Ridge where such other jurisdiction is outside a ten (10) mile radius from the city. (as added by Ord. #15-2014, Dec. 2014)

12-1410. <u>License contents</u>. Each certificate for a license issued in accordance with the provisions of this chapter shall specify the name of the person who has passed the examination, and, in the case of Class I mechanical contractors, and Class II residential mechanical contractors, the name of the person, firm or corporation the qualified person is employed by. (as added by Ord. #15-2014, Dec. 2014)

12-1411. <u>Work authorized</u>. (1) <u>Class I mechanical contractor's license</u>. A Class I mechanical contractor's license shall entitle the person, firm or corporation to whom it is issued to contract for, supervise, and engage in any type of mechanical work within the city.

(2) <u>Class II residential mechanical contractor's license</u>. A Class II residential mechanical contractor's license shall entitle the person, firm or corporation to whom it is issued to contract for and to engage in the business of mechanical work for residential dwellings not exceeding three (3) stories in height and four (4) dwelling units. For the purpose of this section, residential dwellings shall not include motels, hotels, health care facilities, retirement centers, and other such similar facilities. (as added by Ord.#15-2014, Dec. 2014)

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12-1412. <u>Display</u>. Every holder of a license under this chapter shall keep his or her license certificate displayed in a conspicuous place in his or her principal place of business or employment. (as added by Ord. #15-2014, Dec. 2014)

12-1413. Expiration and renewal. All licenses and certificates issued by the board under this chapter shall be issued annually with an expiration date of March 31 each year. Licenses and certificates may be renewed upon payment of the fee established by the city manager. If the license or certificate has not been renewed within one (1) year following the dale of expiration, the complete application process must be repeated, including repeating and passing the examination. The license or certificate must be renewed by the person, firm or corporation in whose name it was issued. (as added by Ord. #15-2014, Dec. 2014)

12-1414. <u>**Disciplinary action.**</u> (1) The board is hereby authorized to reprimand, suspend for up to one (1) year, or to revoke any license issued under this chapter:

(a) If the license was obtained through nondisclosure, misstatement, or misrepresentation of a material fact;

(b) Upon a finding of violation of the mechanical code of the City of Oak Ridge by an administrative hearing officer or judge where the conduct constituted a serious threat to the public safety;

(c) For repealed violations of the mechanical code of the City of Oak Ridge; provided a reprimand or suspension of up to ninety (90) days may be issued for any violation of the mechanical code;

(d) For civil fraud or intentional misrepresentation in the performance of work for which a license was issued under the mechanical code of the City of Oak Ridge;

(e) For allowing another to use the licensee's name to obtain permits;

(f) For doing business or work under the license of another or allowing a license to be used by another to do business; or

(g) For the licensed permit holder who has not provided an on site representative at the job site during the performance of mechanical work for which the permit was issued.

(2) Before any disciplinary action is taken against a licensee or certificate holder under this section, the licensee or certificate holder shall have notice in writing, enumerating the charges against him or her and be entitled to a hearing before the board no sooner than ten (10) days from receipt of this notice. The licensee or certificate holder shall be given an opportunity to present relevant testimony, oral or written, and shall have the right to cross-examination, and the right to be represented by an attorney. All testimony shall be given under oath. The board shall have the power to administer oaths,

issue subpoenas, and compel the attendance of witnesses for the purpose of hearings on licenses. The decision of the board shall be based upon the evidence produced at the hearing and made a part of the record thereof.

(3) Any person may bring a complaint before the board against a licensee or certificate holder for the purpose set forth in subsection (1). If the board finds a complaint provides a reasonable basis to indicate a reason for disciplinary action under this section, a hearing on the licensee or certificate holder shall be scheduled as set forth in subsection (2) hereof.

(4) A person, firm or corporation whose license or certificate has been revoked under this section shall not be permitted to reapply within one (1) year from the date of revocation, provided the board may waive any or all of such waiting period. (as added by Ord. #15-2014, Dec. 2014)

MECHANICAL WORK PERMIT

SECTION

- 12-1501. When required.
- 12-1502. When not required.
- 12-1503. Who is entitled to receive.
- 12-1504. Fees.
- 12-1505. Issuance.
- 12-1506. Effect.
- 12-1507. Invalidity if work not commenced or is abandoned.
- 12-1508. Revocation.

12-1501. <u>When required</u>. Except as otherwise provided in city code §12-1502, all mechanical work done in the city, including installing, altering, or repairing any mechanical installation, including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy related systems, shall be undertaken only after the issuance of a permit therefor by the city manager; provided, however, that emergency repairs and replacements may be made under the condition that a permit therefor shall be obtained within the next five (5) days. (as reserved by Ord. #14-2012, Oct. 2012, and added by Ord. #15-2014, Dec. 2014)

12-1502. <u>When not required</u>. (1) For the purposes of this section, minor "maintenance and repair" is defined as the replacement or repair of existing equipment.

(2) No permit shall be required for minor mechanical maintenance and repairs. (as added by Ord. #15-2014, Dec. 2014)

12-1503. <u>Who is entitled to receive</u>. Permits required by this chapter shall be issued only to:

- (1) Class I mechanical contractors.
- (2) Class II residential mechanical contractors.

(3) Homeowners doing their own work as authorized by city code §12-1505. (as added by Ord. #15-2014, Dec. 2014)

12-1504. <u>Fees.</u> The fees for permits required for inspection of new construction shall be established by the city manager. No permit or amendment to a permit shall be valid until such fees have been paid. (as added by Ord. #15-2014, Dec. 2014)

12-1505. <u>Issuance</u>. Before issuing a permit under this chapter, the city manager shall:

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(1) Determine that the applicant has a current license or, in the case of a homeowner, that the homeowner has the knowledge and qualifications prescribed by the mechanical code of the City of Oak Ridge for mechanical installation and repair;

(2) Shall collect all fees due;

(3) Shall see to it or a current license holder, not a homeowner-that a responsible person is designated as the license holder's on-site representative who is authorized to represent the company for the work to be done under the permit; and

(4) Shall require plans of the proposed mechanical work as required by the code official.

A change in the on-site representative shall require written notification to the city manager. (as added by Ord. #15-2014, Dec. 2014)

12-1506. <u>Effect</u>. A permit issued under this chapter shall be construed to be a license to proceed with the work and shall not be construed as authority to violate, cancel, alter, or set aside any of the provisions of the mechanical code of the City of Oak Ridge, nor shall such issuance of a permit prevent the city manager from thereafter requiring correction of errors in construction, or of violations of the mechanical code of the City of Oak Ridge. (as added by Ord. #15-2014, Dec. 2014)

12-1507. <u>Invalidity if work not commenced or is abandoned</u>. A permit issued under this chapter shall become invalid unless the work authorized by it shall have been commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of one (1) year after the time the work is commenced; provided that, for cause, one (1) or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed in writing by the city manager. (as added by Ord. #15-2014, Dec. 2014)

12-1508. <u>**Revocation.**</u> The city manager may revoke a permit issued under the provisions of this chapter, where there has been any false statement or misrepresentation as to a material fact upon which the permit was based, or when the permit has been otherwise erroneously issued. In all such cases, no permit fees shall be refunded. (as added by Ord. #15-2014, Dec. 2014)

CITATIONS AND ORDINANCE SUMMONSES

SECTION

12-1601. Citations in lieu of arrest in non-traffic cases.12-1602. Summonses in lieu of arrest.

12-1601. Citations in lieu of arrest in non-traffic cases.

(1) Pursuant to <u>Tennessee Code Annotated</u>, § 7-63-101, <u>et seq</u>., city council appoints the code enforcement inspectors in the code enforcement division of the community development department as special police officers having the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this code of ordinances.

(2) The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer shall proceed to have a warrant issued against the offender for the offense or seek the assistance of the police department.

(3) It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued. (Ord. #6-01, Sept. 2001, as renumbered by Ord. #4-11, March 2011, and Ord. #14-2012, Oct. 2012)

12-1602. <u>Summonses in lieu of arrest</u>. (1) Pursuant to <u>Tennessee Code</u> <u>Annotated</u>, § 7-63-201, <u>et seq</u>., city council designates the code enforcement inspectors in the code enforcement division of the community development department with the authority to issue ordinance summonses in the areas of sanitation and litter control. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or regulation in the areas of sanitation or litter control, may issue an ordinance summons and give the summons to the offender.

(2) The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him. The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer shall proceed to have a warrant issued against the offender for the offense or seek the assistance of the police department.

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(3) It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued. (Ord. #6-01, Sept. 2001, as renumbered by Ord. #4-11, March 2011, and Ord. #14-2012, Oct. 2012)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. OAK RIDGE PROPERTY MAINTENANCE CODE.
- 3. JUNKED VEHICLES.
- 4. TREES.
- 5. RESIDENTIAL RENTAL DWELLING UNIT INSPECTIONS.
- 6. OAK RIDGE LAND BANK CORPORATION.

CHAPTER 1

MISCELLANEOUS

SECTION

13-101. Vacant buildings to be kept locked.13-102. Numbering of premises.

13-101. <u>Vacant buildings to be kept locked</u>. It shall be the duty of the owner of any vacant building in the city to keep all doors, windows and other openings in such building locked or otherwise secured so as to prevent unauthorized persons from entering such building. (1969 Code, § 9-2)

13-102. <u>Numbering of premises</u>. All premises shall bear a distinctive number on the front, at or near the front entrance, or on the mailbox, and readily visible from the street. Said numbers shall be in accordance with and as designated in the property reference files in the office of the inspection division, department of public works.

The owners and occupants of all buildings in the city shall cause the correct numbers to be placed thereon in accordance with said property reference files. (1969 Code, § 9-3)

¹Municipal code reference

Oak Ridge Residential Code: title 12.

OAK RIDGE PROPERTY MAINTENANCE CODE

SECTION

13-201. Property maintenance code adopted.13-202. Amendments.13-203.-13-209. Deleted.

13-201. Property maintenance code adopted. The International Property Maintenance Code, 2012 edition, specifically including Appendix A, Boarding Standard, as published by the International Code Council, Inc., is hereby adopted by reference as the "Oak Ridge Property Maintenance Code" for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said code; and shall become a part of this chapter as if copied herein verbatim, with the additions, insertions, deletions and changes prescribed in this chapter. (Ord. #7-01, Sept. 2001, as replaced by Ord. #7-08, Jan. 2008, and Ord. #16-2014, Dec. 2014)

13-202. <u>Amendments</u>. The City of Oak Ridge, Tennessee, hereby amends the <u>International Property Maintenance Code</u>, 2012 edition, as follows:

Section 101.1 Title. Delete in its entirety and insert a new section: "Section 101.1 Title. These regulations shall be known as the Oak Ridge Property Maintenance Code of the City of Oak Ridge, Tennessee, hereinafter referred to as "this code," "ORPMC" and/or "IPMC.""

Section 103 Department of Property Maintenance Inspection. Shall be renamed and known as the "Code Enforcement Division of the Community Development Department."

Section 103.1 General. Delete in its entirety and insert a new section: "Section 103.1 General. "The Code Enforcement Division of the Community Development Department is hereby created and the City Manager or his/her duly authorized designee is in charge thereof shall be known as the code official for the enforcement of the provisions of the Oak Ridge Property Maintenance Code." Section 103.5 Fees. Delete in its entirety and insert a new section: "Section 103.5 Conflict of Interest. No City employee having investigative or enforcement responsibilities under this code shall be financially benefited or involved in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or in the making of plans or specifications thereof, unless he or she is the owner of such building."

Section 104.5 Notices and Orders. Delete in its entirety and Insert a new section: "Section 104.5 Notices and Orders. The City Manager or his/her duly authorized designee, the City of Oak Ridge Board of Building and Housing Code Appeals or the Administrative Hearing Officer shall issue all necessary notices or orders as needed to ensure compliance with this code."

Section 106.3 Prosecution of Violation. Delete second sentence in its entirety and insert a new sentence: "If the notice of violation is not complied with, the City Manager or his designee shall institute the appropriate proceeding at law Including the issuance of A.H.O. citation(s) or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the property or structure in violation of the provisions of adopted codes or the order or direction made pursuant thereto."

Section 106.4 Violation Penalties. Delete in its entirety and Insert a new section: "Section 106.4 Violation Penalties. It shall be unlawful for an owner, lessee, occupant or any other person, corporation or other entity to fail to comply with the provisions of this code or any notice or order by the city manager or his/her duly authorized designee or the Board of Building and Housing Code of Appeals. Failure to comply with such notice or order may be punishable as provided in §1-107 of this code of ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects within a reasonable time. Each day such failure to comply continues beyond the fixed date set by a notice of violation or order for compliance constitutes a separate offense."

Section 106 Violations. Insert a new section: "Section 106.6 Repeat Violations. Owners, operators or legal occupants of any occupancy that previously violated provision(s) of this code which ultimately caused the City to abate such violation(s) any repeat or future violation(s) of the same provision(s) within twelve (12) calendar months shall give cause to the City to correct or abate the same violation(s) with notice per § 107 of

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this code with exception of registered mail requirement at the owners, operators or legal occupants expense and the City may assess unpaid expenses against the property as a lien.

Exception:

- (a) Violations of Unfit for Human Occupation or Use
- (b) Change of property ownership, operator or legal occupant"

Section 106 Violations. Insert a new section: "Section 106. 7 Recovery of Costs. If any person fails to comply with any order or notice given under the Oak Ridge Property Maintenance Code, the city manager may cause such structure to be repaired, altered, improved, vacated, cleaned and sealed or closed, or demolished or removed and the cost of the same shall be assessed against the owner and shall, upon filing of a notice of lien on the property in the office of register of deeds in the county in which the property is located, constitute a lien on the property in favor of the city, second only to liens of the state, county and municipality for taxes, or any other special assessments and any other valid lien, right or interest In such property duly recorded or duly perfected prior to the filing of such notice. These costs shall be placed upon the tax roll of the city as a lien, and shall be added to the property tax roll 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. Any cost recovered by the sale of any of the materials of a structure demolished or removed hereunder shall be credited to the cost of demolition or removal, and any balance remaining shall be deposited in the chancery court and shall be disbursed by such court to such person(s) found to be entitled thereto. Nothing in this section shall be construed to impair or limit in any way the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceeding or otherwise."

Section 106 Violations. Insert a new section: "Section 106.8 Legal Action. The city attorney or the city attorney's duly authorized designee may institute appropriate action to compel necessary repairs, vacating, demolition or payment of penalties as provided by notice or order of the city manager, the Board of Building and Housing Code Appeals or the Administrative Hearing Officer under the City of Oak Ridge adopted building or property maintenance codes."

Section 107 Notice and Orders. Insert a new section: "Section 107.3.1 Complaints, Notice or Orders; service and filing. Complaints, notices or orders involving decisions of unfit for occupation or use or other non-immediate danger related notice violations issued by the city manager, or the Board of Building and Housing Code Appeals shall be served upon persons either personally, electronic mail with confirmed receipt or by registered mail as required, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the city manager, the board or the administrative hearing officer in the exercise of reasonable diligence, the city manager or his/her duly authorized designee or the board shall make affidavit to that effect, then the serving of such complaint or order upon such person(s) may be made by publishing a legal abstract of the same once each week for two (2) consecutive calendar weeks in a newspaper or other legally acceptable medium published, posted or distributed in the city at large. A copy of such complaint, notice or order shall also be posted in a conspicuous place on the premises affected by the complaint, notice or order. A copy of such complaint, notice or order shall also be filed for record in the register of deeds of the county in which the structure or property is located, and such filing of the complaint, notice or order shall have the same force and effect as other lis pendens notices provided by law."

Section 107 Notice and Orders. Insert a new section: "Section 107.3.2 Presumption. There is hereby created a rebuttable presumption that the person listed upon the most recent County tax roll as the owner of a property, dwelling, dwelling unit or structure is the owner for purposes of enforcement of the Oak Ridge Property Maintenance Code."

Section 107.3 Method of Service. At bottom of new section 107.3.2, insert "EXCEPTION: Administrative Hearing Officer process method of service and process shall be accordance to Title 3, Chapter 6 of the City of Oak Ridge Code of Ordinances and T.C.A. § 6-54-1001 et seq."

Section 108.1.3 Structure Unfit for Human Occupancy. Delete in its entirety and insert a new section: "Section 108.1.3 Structures Unfit for Human Occupation or Use. Under Tennessee Code Annotated (T.C.A.), §13-21-102, the City has the power to exercise its police powers to repair, vacate or demolish structures found to be unfit for human occupation or use if any or all of the following conditions exist due to dilapidation or lack of maintenance, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, illumination, heating facilities or sanitary facilities, contains filth and contamination, vermin or rat infested, or due to other conditions rendering such structures defective, unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of the City which therefore constitutes a public nuisance that is declared unlawful, and shall be repaired, vacated, demolished or otherwise abated as provided herein or by other applicable law."

Insert a new section: 'Section 108.1.3.1 Structural Defects. Structures to be considered unfit for human occupation or use for structural defects, the following conditions apply but not limited to: those interior vertical walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base; or those which exclusive of the foundation show thirty-three percent (33%) or more of damage or deterioration of the supporting member(s) of fifty percent (50%) or more of damage or deterioration of the nonsupporting portions of the structure or outside walls or coverings; or those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used."

Section 108.1 .4 Unlawful Structure. Delete in its entirety and insert a new section: "Section 108.1.4 Unlawful Structure. An unlawful structure is one found in whole or in part standing incomplete with invalid/expired building permits with no evidence of a reasonable completion plan from the owner or was erected, altered or occupied contrary to the law or is or to be occupied by more persons than permitted under this code."

Insert a new section: "Section 108.1.6 Extensive Alterations. When the total area of all the work areas included in an alteration or repair exceeds 50 percent of the area of the structure or dwelling unit, the work shall be considered a reconstruction and shall comply with the requirements of the provisions for reconstruction work."

"Exception: Work areas in which the alteration work is exclusively plumbing, mechanical, or electrical shall not be included in the computation of the total area of all work areas."

Section 109.2 Temporary Safeguards. Modify section by inserting the phrase: "or the recognition of a public or attractive nuisance" after the existing "imminent danger due to an unsafe condition,"

Section 110.1 General. Modify this Section by deleting all references to the "code official" and replace in lieu thereof "Board of Building and Housing Code Appeals" and delete reference to the "building official" and replace in lieu thereof "city manager or his/her duly authorized designee."

Section 111 Means of Appeal. Delete in its entirely and insert a new section: "Section 111 Board of Building and Housing Code Appeals.

Section 111.1 The Board of Building and Housing Code Appeals may be referred to as "the board" or 'BBHCA" in this code.

Section 111.2 BBHCA; Appointment.

- (a) There is hereby created a board of building and housing code appeals consisting of seven (7) members, which shall be residents of the City of Oak Ridge, Tennessee and shall consist of the following: one physician or person from a health related field; one architect or engineer; one building-related contractor or building supply dealer; one realtor; and three members from the public at large; provided that, if no individuals meeting these criteria apply for appointment, City Council may appoint persons who do not possess such qualifications.
- (b) Appointment to the board shall be staggered three (3) year terms, provided the terms of members of the initial board shall be as follows:
 - (i) Three (3) members from the public at large-3 years
 - (ii) One (1) Physician or other member from health related field-2 years
 - (iii) One (1) Architect or Engineer-2 years
 - (iv) One (1) Realtor-1 year
 - (v) One (1) Building related contractor or building supply dealer-1 year
- (c) Members of the board may be removed by the City Council for good cause shown.
- (d) Vacancies on the board shall be filled by City Council for the unexpired term of such vacancy.
- (e) All members of the board shall serve without compensation.
- (f) As soon as practical after appointment, the members of the board shall meet and organize by electing a chairperson, vice-chairperson and secretary. The City Manager, or his/her duly authorized designee shall serve as Ex-Officio. Thereafter, officers of the board shall be elected by the members at the first annual meeting of the board. Four (4) members shall constitute a quorum and the affirmative vote of at least four (4) members shall be required to

take any action, except to continue a meeting where no quorum is present. A member shall not act in a case in which such member or his or her family member or employer has a personal or financial interest. The board shall establish such other written rules and regulation for Its own procedure not inconsistent with the provisions of ORMPC and a copy shall be kept on file with the City Clerk.

- (g) All hearings before the board shall be open to the public. The appellant, the appellant's representative, the City Manager or his/her duly authorized designee and any person whose interests are affected shall be given the opportunity to be heard.
- (h) Any reference in any provision of the Code of Ordinance, City of Oak Ridge, Tennessee to the board of building code appeals or the board of housing code appeals shall be deemed to refer to the Board of Building and Housing Code Appeals.

Section 111.3 Duties and Powers of the Board of Building and Housing Code Appeals. The board shall hear all City of Oak Ridge Property Maintenance Code appeals submitted by any person directly affected by a decision of the City Manager or his/her duly authorized designee or a notice or order issued under this code shall have the right to appeal to the board in accordance to Section 111.6 of this code.

- (a) Board of Building and Housing Code Appeals shall meet monthly or as needed to hear all cases of structures unfit for human occupation or use and shall hear all appeals of notices for housing violations, if any have been filed, but in any event shall meet within fifteen (15) business days after receipt of an application or notice of appeal if so requested by the City Manager or his/her duly authorized designee or by the Appellant.
- (b) At such hearings, the board shall hear and receive such relevant testimony and evidence as presented by the City Manager or his/her duly authorized designee or by the Appellant.
- (c) The board shall determine whether the structure is unfit for human occupation or use, whether an appealed violation exists, whether the City Manager or his/her duly authorized designee's notice of violation is proper and/or whether a request for an extension of time or waiver shall be granted.

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- (d) Extensions of time may be granted only upon a showing of undue hardship, or that such is necessary to complete the abatement of violation, and shall not exceed ninety (90) calendar days from the date the board's decision. After a hearing, additional extensions may be granted, not to exceed a total of ninety (90) calendar days, if they are requested at least fifteen (15) business days prior to the expiration of the current order, provided such extension shall only be granted where the appellant/owner shows that he or she has been making a good faith effort and progress toward completing the abatement of violation(s), and that such additional time is necessary.
- (e) Anything herein to the contrary notwithstanding, no more than one thirty (30) calendar days extension of time may be granted to complete board ordered repairs or demolition to any structure that constitutes an imminent or immediate threat or danger to the health, safety or general welfare of any person or to the public. As a condition of granting such extension, the board may impose restrictions on the appellant/owner to secure the property or to take other measures to protect the health, safety and general welfare of the public.
- (f) Upon application, the board is empowered to grant a waiver from specific minimum requirements of this ordinance, provided however, waivers shall be granted only for unique or special conditions of the dwelling or structure or that imposition of the minimum requirement to the applicant would impose an extreme and undue hardship; and that waiver of the particular requirement would not endanger the health, safety or welfare of the occupants or the general public, or would not cause or threaten an imminent deterioration of property values in the area in which such properly/structure is located. It is the Intent of this provision that waivers are not to be liberally granted, but rather are intended only for purposes specifically enumerated herein. Economic hardship alone shall be insufficient reason for granting of a waiver.
- (g) Appeals of notice and orders (other than Imminent Danger notices per Section 109 of this code) shall stay the enforcement of the notice and order until the appeal is heard by the board.
- (h) The board shall issue a written decision upholding or dismissing the notice of the City Manager or his/her duly authorized designee, or modifying the notice to the extent the board determines the order was improper, or granting or denying an extension of time

for compliance or granting or denying a waiver, or declaring a structure unfit for human occupation or use. Copies of all decisions shall be given to the City Manager or his/her duly authorized designee and the appellant/owner, and filed with the city clerk.

- (i) The board shall also hear appeals under the building code or any other city code wherein the board is designated to hear appeals.
- (j) The board shall further have the duty, in accordance with § 11-105 of the Code of Ordinances, City of Oak Ridge, Tennessee, to receive and investigate complaints of discrimination in housing, and to recommend ways of eliminating any injustices caused thereby.

Section 111.4 Standards for Repair, Vacation or Demolition. The following standards shall be followed in substance by the BB HCA in ordering repair, vacation or demolition of a structure unfit for human occupation or use:

- (a) If the structure can reasonably be repaired, altered or improved so that it will no longer exist in violation of the provisions of this code, it shall be ordered repaired, altered or improved to render the structure fit for human occupation or use or to vacate and close the structure as a place of human occupation or use.
- (b) If the structure is fifty percent (50%) or more damaged or decayed or in disrepair from its value or condition prior to becoming a nuisance, and it is otherwise unreasonable to repair, it shall be ordered vacated and demolished or removed.
- (c) In any case where the structure is abandoned or In such a condition as to make it dangerous to the health, safety or general welfare of its occupants or the general public, it shall also be ordered vacated and the BB HCA may additionally order the structure and the property to be secured in such a manner to protect the health, safety or general welfare of the public or persons on the property until such repairs or demolition has been completed, or may order other immediate actions reasonably necessary.

Section 111.5 Duties of the City Manager or his/her duly authorized designee.

(a) Whenever a petition is filed with the city manager by at least five
(5) residents of the city that a structure is unfit for human

occupation or use or is in violation of the Oak Ridge Property Maintenance Code, or whenever it appears to the city manager (upon the city managers own motion) that a structure is unfit for human occupation or use, the city manager shall, if the city managers preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest of such structure a complaint stating the specific charge(s) and containing a notice that a hearing will be held before the BBHCA at a place fixed therein, no less than ten (10) calendar days and no more than thirty (30) calendar days after serving the notice; provided that by mutual agreement the time for the hearing may be lessened or extended. Such notice shall state that:

- (i) The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and to give testimony at the hearing.
- (ii) The rules of evidence prevailing in a court of law or equity shall not be controlling at the hearing.
- (b) If, after such notice and hearing, the BBHCA determines that a structure is unfit for human occupation or use, the board shall issue written findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order to repair, vacate or demolish the structure, in accordance to Section 110 of this code, and shall provide a reasonable time for the compliance not to exceed ninety (90) calendar days.
- (c) If the owner fails to comply with an order or to vacate and close the structure, the BBHCA may cause such structure to be repaired or to be vacated and closed and shall cause to be posted at the main entrance to the structure so closed a placard stating: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."
- (d) If the owner fails to comply with an order to demolish or remove the structure, the city manager may cause such structure to be demolished or removed.
- (e) For any structure that has been ordered vacated during the repairs or demolition of the structure, the owner of the structure shall cause to be posted at the main entrance to the structure a placard staling: "This structure has been found to be unfit for human occupation or use. This notice is to remain posted conspicuously on the property until the structure is repaired or demolished."

Section 111.6 Right to Appeal. Any person receiving or aggrieved by a notice issued by the city manager or his/her duly authorized designee pursuant to the Oak Ridge Property Maintenance Code, except environmental violations (including but not limited to weeds, vines, bushes and hedges, motor vehicles abandoned or inoperable or otherwise illegal, and accumulation of rubbish and garbage) which appeals are handled by the community development department of the City of Oak Ridge, may appeal such notice to the Board of Building and Housing Code Appeals. The appeal may contest the fact of the violation(s) set forth in the notice or may request additional time to comply with the notice.

- (a) Form. The appeal shall be made on a form prescribed by the board or the city, which form shall minimally identify the name of the appellant, the property on which the violation(s) is said to occur and the date of the notice and shall contain a statement of why the appeal is made and what relief is sought.
- (b) Timeframe. Such appeal must be filed with the city manager or his/her duly authorized designee within ten (10) calendar days of the date of the notice, or within three (3) business days from the date of the notice for environmental violation to the community development director or his/her duly authorized designee of the City of Oak Ridge.
- (c) Extension of time to complete. If the owner has undertaken in good faith to correct the violation as set forth in the notice, the owner may request an extension of time to complete the cleanup, repairs or demolition provided the owner files such a request with the city manager or his/her duly authorized designee at least ten (10) business days prior to the date such cleanup, repairs or demolition where ordered lo be completed. While the board may waive this ten (10) calendar day requirement for good cause shown, no request for an extension of time shall be filed after the expiration of the time of completion set forth In the notice. The decision made by the community development department will be final and the extension of time will not be granted.

Section 111.6.1 Right to Appeal an Order Declaring a Structure Unfit for Human Occupation or Use.

(a) As set forth in state law, any person affected by an order declaring a structure to be a non-imminent danger unfit for human occupation or use may file a bill in the chancery court for an injunction restraining the BBHCA from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the board pending the final disposition of the cause; provided, that within sixty (60) calendar days after the posting and service of the order of the board, such person shall file such bill in the court.

(b) The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings, the findings of the board as to facts, if supported by evidence, shall be conclusive. Costs shall be In the discretion of the court. The remedies herein provided shall be exclusive remedies, and no person affected by an order of the board shall be entitled to recover any damages for action taken pursuant to any order of the board, or because of non-compliance by such person with any order of the board.

Section 112.4 Failure to Comply. Delete in its entirety and insert a new: "Section 112.4 Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable and subject to penalties of not less than \$50.00 or more than \$500.00 per violation and as set forth in Section 106.4 of this code."

Section 202 General Definitions. Delete title "General Definitions" and insert a new title: "General Definitions and Phrases"; also insert respectively:

"Abandoned Motor Vehicle. A motor vehicle or trailer or recreational vehicle designed to be towed by a motor vehicle that is left unattended on public property for more than thirty (30) calendar days; is in an obvious state of disrepair and is left unattended on public property for more than ten (10) calendar days: has remained illegally parked or placed on public property for any period of time exceeding forty-eight (48) consecutive hours; has remained on private property without the consent of the owner or person in control of the property for any period of lime exceeding forty-eight (48) consecutive hours."

"Administrative Hearing Officer (A.H.O). Means the Administrative Hearing Officer created by Title 3, Chapter 6 of the City Code pursuant to Tennessee Code Annotated §6-54-1001 et

seq. who hears violations of designated building and property maintenance codes."

"Antique Motor Vehicle. A motor vehicle over twenty-five (25) years old with a non-modified engine and body which is used for participation in club activities, exhibits, tours, parades and similar uses as a collector's item, but in no event used for general transportation."

"Any and all other objectionable, unsightly or unsanitary matter of whatever nature, means any condition, object, material or other matter that is dangerous or detrimental to human life or health; that renders the ground, the water, the air or food a hazard or likely to cause injury to human life or health; that is offensive to the senses; or that threatens to become detrimental to the public health. The term includes but is not limited to any abandoned wells, pools, landscape water features, shafts or basements; abandoned refrigerators; stagnant or unwholesome water; sinks; privies; filth; carrion: rubbish; junk, trash, debris or refuse; impure or unwholesome matter of any kind; and any matter, condition or object which is objectionable, unsightly or unsanitary to a person of ordinary sensitivities."

"Attractive Nuisance. The doctrine in tort law which holds that one who maintains a dangerous instrumentality on his or her property which is likely to attract children is under a duty to reasonably protect those children against the dangers of that attraction."

"Bushes and Hedges means vegetative growth or plant that includes but not limited to holly, box hedges, azaleas, roses, rhododendrons, laurel, lilac, hibiscus and evergreens."

'Corner Visibility Triangle means a triangular area formed within a corner lot by the intersecting lot lines abutting the streets or the projections thereof and a straight line connecting them 7.5 meters (24.6 feet) from their point of intersection."

"Driveway Visibility Triangle means a triangular area formed by the intersection of the lateral limit of the travelled portion of a driveway and a lot line abutting a street or the projections thereof and a straight line connecting them 4.57 meters (15 feet) from their point of intersection." Delete "Inoperable motor vehicle" and insert new definition: "Inoperable Motor Vehicle. A vehicle, motor vehicle or trailer or recreational vehicle designed to be towed by a motor vehicle which cannot be driven or operated upon the public streets for reason including but not limited to being unlicensed, unregistered, wrecked, abandoned, in a state of disrepair causing unsafe operation, one or more flat tires or incapable of being moved under its own intended power."

"Lot or parcel of real estate. includes, in addition to those grounds within their respective boundaries, all lots or parcels of ground lying and being adjacent thereto and extending beyond the property line of any such lot or parcel of real estate to the curb-line of adjacent streets where a curb-line has been established, and any abutting rights-of-way beyond the property line where no curb-line has been established and also to the center of adjacent alleys,"

"Natural Landscaped Area - Natural landscaping, also called native gardening, is the use of native plants, including trees, shrubs, groundcover, and grasses which are indigenous to the geographic area of the garden which is either naturally established or designed and cultivated that when established will sustain itself with minimal maintenance effort that do not contain noxious weeds or poisonous plants that cause a public nuisance."

"Nuisance. Use of property or course of conduct that interferes with the legal rights of others by causing damage, annoyance, or inconvenience which can also be considered an attractive or public nuisance."

"Parties of Interest. Means all individuals, associations, corporations and others who have interests of record in a structure and any who are in possession thereof."

"Permanent Heat Supply." Any listed and approved heat source permanently wired or piped, safely attached, sized and operating properly, not removable without the use of tools and capable of continuously maintaining a temperature of 68 degrees Fahrenheit at an approximate height of 3 feet above the floor in the center area of each habitable space as required."

"Place of Public Accommodation. Means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited." "Public Nuisance. Means a nuisance which affects numerous members of the public or the public at large (how many people it takes to make a public is unspecified), as distinguished from a nuisance which only does harm to a neighbor or a few private individuals. A public nuisance is an unreasonable interference with the public's right to property. It includes conduct that interferes with public health, safety, peace or convenience. The unreasonableness may be evidenced by statute, or by the nature of the act, including how long, and how bad, the effects of the activity may be. All structures and appurtenances which are found unfit for human occupation or use within the terms of § 108.1.3 as determined by the Board of Building and Housing Code Appeals are also considered a public nuisance."

"Recreational vehicles. Any vehicular-type unit used primarily for recreational purposes including, but not limited to, boats, boat trailers, personal water craft carriers, personal watercraft trailers, travel trailers, tent trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motor coaches, motorized homes, and non-motorized vehicles."

"Rental Unit. Dwelling, dwelling unit, rooming unit, or sleeping unit or any part of a structure used as a home, residence, or sleeping unit by a single person, household unit by any person(s) other than the legal owner of the property which is leased, rented, or otherwise occupied from the owner or other person in control of such unit(s), whether by day, week, month, year or any other term, regardless of monetary exchange."

"Swimming Pool. Means any structure intended for swimming or recreational bathing that contains water more than 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground swimming pools, hot tubs and spas."

"Trash and Debris. Means all manner of refuse, including but not limited to mounds of dirt, compost, piles of leaves, grass and weed clippings, paper trash, useless fragments of building material, rubble, household items and appliances, items of salvage such as scrap metal and wood, barrels, tires, objects that hold water for an extended time, tree and brush trimmings, and other miscellaneous wastes or rejected matter."

"Turf grass. Refers to all species of grass that are perennial and are typically used for lawns."

"Utility trailers. Any wheeled structure, without motive power, designed to be towed by a motor vehicle and which is generally and commonly used to carry and transport personal effects and/or property."

"Vines. Means a vegetative growth or plant with a long stem that grows along the ground or climbs a support such as, but not limited to: Clematis, Climbing Roses, Honey Suckle, Ivy, Jasmine, Morning Glory, Trumpet Vines, and Wisteria."

"Weeds. A plant other than trees, shrubs, turf grass and cultivated flowers or gardens that is not valued where it is growing and is usually of vigorous growth; especially one that tends to overgrow or choke out more desirable plants."

Section 302.4 Weeds. Insert height in bracket: "10 inches"

Section 302.4 Weeds. Insert new section: "302.4.1 Accumulation or Condition Declared Unlawful.

- (a) Whenever and wherever weeds, shrubbery, rubbish or any other objectionable, unsightly and unsanitary matter of whatever nature shall exist, covering or partly covering the surface of any lot or parcel of real estate within the city so as to produce an unsightly appearance or which may harbor reptiles or rodents, create a fire hazard or result in unsanitary conditions, such a condition is declared to be unlawful, the abatement of which shall be a public necessity.
- (b) Vines that cover 50 percent or more of the ground surface area in a residential front yard, to include side yards if visible from the street, shall not exceed 12 inches in height. Vines used as ground cover, shall be cut back so they do not grow onto any curb, sidewalk, or driveway.
- Bushes and hedges shall be trimmed to prevent encroachment on any sidewalk, walk-way or extend over the curb or edge of a street. Bushes and hedges shall not be allowed to create a visibility triangle issue for vehicles or pedestrians."

Insert new section: "302.4.2 Natural Landscaped Area, Native Gardens shall be allowed for the purposes of vegetated buffers, slormwater retention and control, stabilizing slopes and preventing erosion, supporting birds and other desirable wildlife and establishment of plant communities' native to this region. Natural landscaped areas and native gardens shall not violate the provisions of this code or have a negative impact on any structures or appurtenances nor be permitted to become a public nuisance or fire hazard as determined by the authority having jurisdiction.

Insert new sub-section: "302.8.1 Residential off-street parking. Residential off-street parking shall consist of a parking strip, driveway, garage, stall or combination thereof (collectively referred to as "approved parking surface"). All approved parking surfaces shall be located on the lot it is intended to serve and there shall be vehicular access from each approved parking surface to the public street via an approved curb cut. The portion of the vehicular access lo the public street (approved parking surface such as driveway, parking strip, etc.) that is located on the street right-of-way shall have a hard paved surface."

Insert new sub-section: "302.8.2 Single family detached dwellings and duplexes. For single-family detached dwellings and duplexes, the approved parking surface shall be a hard surface which is comprised either of gravel, asphalt, concrete, pavers, or some combination thereof."

Insert new sub-section: "302.8.3 Attached or multifamily dwellings. For single-family attached dwellings with three (3) or more contiguous units and multiple-family dwellings, all approved parking surfaces shall be paved."

Insert new sub-section: "302.8.4 Front yard parking. It is unlawful for any person to park or store any vehicle or trailer, including but not limited to recreational vehicles and utility trailers, within the front yard in any residential district unless such vehicle is parked on an approved parking surface. It is also unlawful for the registered owner of any such vehicle or trailer to allow another person to park or store a vehicle or trailer within the front yard in any residential district unless such vehicle is parked on an approved parking surface. No more than fifty percent (50%) of the required front yard shall be utilized for an approved parking space."

Exception: Parking in a front yard off of an approved parking surface will be allowed under these special circumstances:

- 1. Temporary loading or unloading.
- 2. When construction, remodeling, maintenance, or repairs are being performed on the property, provided a Temporary Use

Permit is obtained and all applicable requirements of Section 3.18(h) of the Zoning Ordinance are met prior to issuance of the Temporary Use Permit.

3. Parking for isolated, non-recurring gatherings or parties or for visitors. This exception is not intended and shall not be used to provide permanent or semi-permanent parking for extra vehicles."

Insert new sub-section: "302.8.5 Side & Rear yard parking. For single-family detached dwellings and duplexes, residential off-street parking is permitted outside of an approved parking surface only In the side and rear yard provided side and rear yard setbacks are met and remain clear of all vehicles."

Insert new sub-section: "302.8.6 Attached or multifamily dwellings parking. For single-family attached dwellings with three (3) or more contiguous units and multiple-family dwellings, all off-street parking shall be on a paved approved parking surface."

Insert new section. "Section 302.10 Dog to be controlled so as to not commit nuisances. It shall be unlawful for any person owning or having control or custody of any dog to permit the animal to defecate upon the public property of this City or upon the private property of another unless the person immediately remove the feces and properly dispose of it; provided, however, that nothing herein contained authorizes such person to enter upon the private property of another without permission."

Insert new sub-section. "Section 302.10.1 Suitable container or Instrument for removal. It shalt be unlawful for any person to walk a dog on public property of this City or upon the private property of another without carrying at all times a suitable container or other suitable instrument for the removal and disposal of dog feces."

Insert new sub-section. "Section 302.10.2 Seeing Eye Dog. Visually handicapped persons who use Seeing Eye Guide Dogs are exempt from this law."

Section 304.14 Insect Screens. Insert dates in two brackets respectively: "April 1" ... "November 1"

Section 304.10 Stairways, decks, porches and balconies. Insert new language to continue sentence: "and shall not be used for outdoor storage of excessive trash, junk, debris or items with intended purpose for indoor use.

Change 5, June 11, 2018

Section 308.1 Accumulation of rubbish or garbage. Insert after" ... property and premises," new language to sentence: "including decks, porches, and open carports ..."

Delete Section 602.3 Heat Supply in its entirety and substitute therefor a new section as follows: "Section 602.3 Permanent Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish permanent heat supply as defined in Chapter 2 of this Code to the occupants thereof shall supply heat during the period from September 1 to May 1 to maintain a minimum temperature of 68 'F (20'C) in all habitable rooms, bathrooms and toilet rooms. Temporary electrically plugged or fuel burning space heaters are prohibited to be used in place of permanent heat except In an emergency case by case basis."

Section 602.4 Occupiable Work Spaces. Insert dates in two brackets respectively: "September 1" ... "May 1"

Appendix A, Boarding Standards. A 102 Materials insert new subsection "Section A102.4 other approved method(s). The city manager may allow alternative means or methods of boarding structures meeting the intent of this code in the event the requirement herein is determined to be impractical or cost infeasible." (Ord. #7-01, Sept. 2001, as replaced by Ord. #7-08, Jan. 2008, and Ord. #16-2014, Dec. 2014)

13-203.--13-209. Deleted. (as deleted by Ord. #16-2014, Dec. 2014)

CHAPTER 3

JUNKED VEHICLES¹

SECTION

- 13-301. Definitions.
- 13-302. Declared public nuisance.
- 13-303. Notice to remove.
- 13-304. Removal by city.
- 13-305. Exemptions from chapter.
- 13-306. Penalty for violation.

13-301. <u>Definitions</u>. For the purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings given herein:

(1) "City manager." "City manager" shall mean the city manager or the city manager's duly authorized designee.

(2) "Junked vehicle." Any motorized or non-motorized vehicle, including but not limited to campers, trailers and semi-trailers, the condition of which is one or more of the following: wrecked, abandoned, discarded, in a state of disrepair, lacking vital component parts, or poses a safety hazard.

(3) "State of disrepair." Exhibiting one (1) or more of the following characteristics: inoperable under its own power (if a motor vehicle), without one (1) or more wheels or inflated tires, burned throughout, with more than one (1) broken window, or in a generally unusable condition. (Ord. #16-03, July 2003)

13-302. <u>Declared public nuisance</u>. The location or presence of any junked vehicle on any street, roadway, right-of-way, lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the city, shall be deemed a public nuisance and it shall be unlawful for any person to cause or maintain such public nuisance on the property of another, or to suffer, permit or allow the same to be placed, located, maintained or to exist upon his or her own real property. (Ord. #16-03, July 2003)

13-303. <u>Notice to remove</u>. Whenever any junked vehicle is found in the city in violation of an ordinance, the city manager shall cause the owner or occupant of the premises on which such vehicle is located, or the owner of said vehicle, to be served with a notice to remove such vehicle within ten (10) days after service of such notice. It shall be unlawful for the owner or occupant of the

¹Municipal code reference

Motor vehicle regulations generally: title 15.

premises, or owner of the vehicle, to fail, neglect or refuse to obey such notice within ten (10) days after service of the same. (Ord. #16-03, July 2003)

13-304. <u>**Removal by city</u>**. If the premises on which a junked vehicle is located contrary to this chapter is unoccupied and the owner or agent thereof cannot be found, or by permission of the owner of the premises, the city manager shall abate such public nuisance by having said vehicle impounded. If any junked vehicle is located on a roadway or public right-of-way and has not been removed within ten (10) days of notice, the city manager shall abate such public nuisance by impounding the vehicle. If any junked vehicle is located on a roadway or public right-of-way causing a safety hazard, the city manager may immediately remove said vehicle for safety purposes. Such impoundment and disposition shall not relieve any person from liability for penalty upon conviction for violating other provisions of this chapter, but is in addition to any other penalty. (Ord. #16-03, July 2003)</u>

13-305. <u>Exemptions from chapter</u>. This chapter, as well as the motor vehicle provisions contained in chapter 2 of this title, shall not apply to:

(1) Any vehicle that is confined within a completely enclosed structure that is an approved structure within the zoning district it is located upon, such as a garage.

(2) Any vehicle in an appropriate storage place maintained in an officially designated place and manner by the city.

(3) Vehicles retained by the owner for antique collection purposes rather than for salvage or for transportation.

(4) Vehicles stored by a member of the armed forces of the United States who is on active duty assignment and stored with the permission of the property owner. (Ord. #16-03, July 2003, as amended by Ord. #10-08, March 2008)

13-106. <u>Penalty for violation</u>. Any person violating this chapter, upon conviction, shall be fined no more than fifty dollars (\$50.00). (Ord. #16-03, July 2003)

CHAPTER 4

TREES¹

SECTION

13-401. Unlawful to cut.

13-402. Public tree care.

13-403. Tree topping.

13-404. Pruning and clearance.

13-405. Dead or diseased tree removal on private property.

13-406. Interference.

13-401. <u>Unlawful to cut</u>. It shall be unlawful for any person to cut, top, prune, trim, or remove any tree on any city greenbelt, right-of-way, park, or other city property without the written permission of the city manager. (1969 Code, § 16-3)

13-402. <u>Public tree care</u>. (1) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs, or parts thereof within the lines of all streets, lanes, circles, squares, and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(2) Private persons, businesses or organizations may be allowed to plant trees within the right-of-way of any city street or upon other city property, provided such plantings may only be done with the written permission of the city manager. (1969 Code, § 16-4)

13-403. <u>**Tree topping**</u>. It shall be unlawful as a normal practice to top any tree on city-owned property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical are exempted. (1969 Code, § 16-5)

13-404. Pruning and clearance. The city shall have the right to prune, cut, clear, or remove any tree, shrub, bush, or flower on public or private property which overhangs any street, right-of-way or public easement within the city so as to constitute a hazard to the safety or property of any person upon such street, right-of-way or easement, or to prune, cut, clear or remove any tree,

¹Municipal code reference

Tree board: title 2, chapter 3.

13-24

shrub, bush or flower on public or private property when such interferes with the proper spread of light along the street from a street light, or interferes with the visibility of any traffic control device or sign, or interferes with pedestrian travel, or interferes with the safe line of sight along any street or roadway, or which is injurious or a potential threat to sewers, electrical power lines, gas lines, water lines, or other public improvement.

When it becomes necessary to prune, cut, clear or remove any tree, shrub, bush or flower pursuant to this section, the city will attempt to minimize the amount of pruning, cutting, clearance and removal of trees necessary to accomplish the safety objective undertaken. (1969 Code, § 16-6)

13-405. Dead or diseased tree removal on private property. The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees harbor insects or disease which constitute a potential threat to other trees within the city. The city will notify in writing the owners of the property on which such trees are located to remove the same. Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice. Notice shall be deemed served when sent by certified mail to the owner at the address shown on the official city property tax roll.

In the event of failure of owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the property owners. The cost of such removal shall constitute a lien on the property. (1969 Code, § 16-7)

13-406. <u>Interference</u>. It shall be unlawful for any person to prevent, delay or interfere with the city or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any trees as authorized in this chapter. (1969 Code, § 16-8)

CHAPTER 5

RESIDENTIAL RENTAL DWELLING UNIT INSPECTIONS

SECTION

- 13-501. Purpose.
- 13-502. Authority.
- 13-503. Definitions.
- 13-504. Residential rental inspection districts.
- 13-505. Notice requirements.
- 13-506. Inspection program.
- 13-507. Exemptions.
- 13-508. Powers of the director.
- 14-509. No fee schedule.
- 13-510. Appeals.
- 13-511. Powers supplemental.
- 13-512. Failure to comply penalty.

13-501. <u>Purpose</u>. The purpose of this chapter is to promote the public health, safety and welfare of the citizens of Oak Ridge by providing for the establishment of residential rental inspection districts and providing for inspection of residential rental dwelling units that are deteriorated or are in the process of deteriorating for compliance with applicable housing, building, plumbing, electrical, fire, health, and related codes. (as added by Ord. #1-07, Jan. 2007)

13-502. <u>Authority</u>. This chapter is adopted pursuant to the authority granted to the city under public chapter 949 of the Public Acts of 2006, as codified in <u>Tennessee Code Annotated</u>, §§ 13-21-301 through 13-21-314. (as added by Ord. #1-07, Jan. 2007)

13-503. <u>Definitions</u>. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

(1) "City." City means the City of Oak Ridge, Tennessee.

(2) "City manager." City manager means the city manager or the city manager's duly authorized designee.

(3) "Deteriorated." Deteriorated means any structure or vacant or unimproved lot or parcel in a predominately built-up neighborhood:

(a) Which, because of physical condition or use, is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with local housing, building, plumbing, electrical, fire, health, or related codes; (b) Which, because of physical condition, use, or occupancy is considered an attractive nuisance;

(c) Which, because it is dilapidated, unsanitary, unsafe, vermin-infested, or other condition, has been designated by the appropriate agency, department, or board as unfit for human habitation or use;

(d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(e) From which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for human habitation or use;

(f) Which, by reason of neglect or lack of maintenance, has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(g) Which has been tax delinquent for a period of at least three (3) years; or

(h) Which has not been rehabilitated within the time constraints placed upon the owner or party in interest by the city.

(4) "Director." Director means the director of the community development department or the director's designee.

(5) "Dwelling." Dwelling means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(6) "Dwelling unit." Dwelling unit means a building or structure or part thereof that is used for a home or residence by one (1) or more persons who maintain a household. Dwelling units include, but are not limited to, single family houses, multiple family houses, apartments, condominiums, and townhouses. Dwelling units specifically do not include hospitals, nursing homes, or retirement homes.

(7) "Owner." Owner means the holder of the title to real property and every mortgagee of record.

(8) "Parties in interest." Parties in interest means all individuals, associations, corporations, and others who have interests of record in a structure and any who are in possession thereof.

(9) "Residential rental dwelling unit." Residential rental dwelling unit means a dwelling unit that is leased or rented to one (1) or more tenants. However, a dwelling unit occupied in part by the owner thereof shall not be construed to be a residential rental dwelling unit unless otherwise provided by the zoning ordinance.

(10) "Structure." Structure means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (as added by Ord. #1-07, Jan. 2007, and amended by Ord. #09-2013, Sept. 2013)

13-504. <u>Residential rental inspection districts</u>. (1) The provisions of this chapter shall apply to residential rental dwelling units located within a residential rental inspection district. Residential rental inspection districts are those geographic areas designated by city council, by ordinance, that are found to meet the following criteria:

(a) There is a need to protect the public health, safety and welfare of the occupants of dwelling units inside the geographic area;

(b) The residential rental dwelling units within the geographic area are either deteriorated or in the process of deteriorating or the residential rental dwelling units are in the need of inspection by the city to prevent deterioration, taking into account the number, age and condition of residential rental dwelling units inside the geographic area; and

(c) The inspection of residential rental dwelling units inside the geographic area is necessary to maintain the health, safety and welfare of tenants and other residents living in the geographic area.

Nothing in this subsection shall be construed to authorize a city-wide residential rental inspection district and the boundaries of the residential rental inspection district shall be limited to such areas that meet the criteria set forth in this subsection.

(2) The city hereby declares the following geographic area(s) to be residential rental inspection districts based upon the findings outlined above in § 13-504(1):

(a) Manhattan District Overlay. The geographic area of this district is established by zoning designation. The Manhattan District Overlay is a zoning overlay district contained in the zoning ordinance pertaining to the older core neighborhoods.

(b) (Intentionally left blank)

(3) Any residential rental inspection district established pursuant to the authority of this chapter shall exist for a period not to exceed ten (10) years from the date of adoption of the ordinance creating such residential rental inspection district. Nothing contained herein shall preclude the re-establishment of any residential rental inspection district by ordinance as authorized by this chapter. (as added by Ord. #1-07, Jan. 2007, and amended by Ord. #09-2013, Sept. 2013)

13-505. <u>Notice requirements</u>. (1) <u>City's notice to owners and parties</u> <u>in interest</u>. The director shall make reasonable efforts to notify owners and parties in interest of residential rental dwelling units located within the designated residential rental inspection districts of the provisions of this chapter within a reasonable time after such area is designated as a residential rental inspection district. Such notice shall include, at a minimum, summary of the provisions of this chapter. Notice sent by regular first class mail to the last known address of the owner or party in interest shall be deemed compliance with this subsection.

Notice to the city. All owners and parties in interest of dwelling (2)units located within a residential rental inspection district shall notify the director, in writing, of whether their property is a residential rental dwelling unit. The city may develop a form for such purposes. There shall be no registration fee or a fee of any kind associated with the written notification. The director shall not require that the written notification from the owner or party in interest of a dwelling unit subject to this chapter be provided to the director in less than sixty (60) days after the adoption of an ordinance establishing a residential rental inspection district. However, there shall be no penalty for the failure of an owner or party in interest of a residential rental dwelling unit to comply with the provisions of this subsection, unless and until the director provides actual or written notice to the property owner or party in interest. Notice sent by regular first class mail to the last known address of the owner or party in interest shall be deemed compliance with this subsection. (as added by Ord. #1-07, Jan. 2007)

13-506. <u>Inspection program</u>. (1) <u>Initial inspections</u>. Upon establishment of a residential rental inspection district in accordance with this chapter, the director may, in conjunction with the written notifications as provided for in this chapter, proceed to inspect dwelling units that are either deteriorated or in the process of deteriorating located in the designated residential rental inspection district. The director is authorized to inspect residential rental dwelling units that are either deteriorated or in the process of deteriorating to determine if the dwelling units are being used as a residential rental property and to determine if the dwelling units are in compliance with applicable housing, building, plumbing, electrical, fire, health or related codes.

(2) <u>Periodic inspections</u>. Except as provided in § 13-506(3), following the initial inspection of a residential rental dwelling unit found to be deteriorated or in the process of deteriorating, the director may inspect periodically any residential rental dwelling unit that is deteriorated or in the process of deteriorating that is not otherwise exempted by this chapter.

(3) <u>Follow-up inspections</u>. Following the initial or periodic inspection of a residential rental dwelling unit found to be deteriorated or in the process of deteriorating and which is subject to this chapter, the director has the authority to require the owner or party in interest of such dwelling unit to submit to such follow-up inspections of the dwelling unit as the director deems necessary, until such time as the dwelling unit is brought into compliance with the provisions of all applicable housing, building, plumbing, electrical, fire, health or related codes. (as added by Ord. #1-07, Jan. 2007)

13-507. <u>Exemptions</u>. Following the initial or periodic inspection of a residential rental dwelling unit found to be deteriorated or in the process of

deteriorating, and provided that there are no violations of applicable codes and ordinances, or such violations are remedied in a timely manner, the director shall provide to the owner or party in interest of such residential rental dwelling unit an exemption from this chapter for a minimum of four (4) years. For the purposes of this section, timely manner shall be construed to mean less than ninety (90) days after the owner has been given notice of violation. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four (4) years, an exemption shall be granted for a minimum period of four (4) years from the date of the issuance of the certificate of occupancy by the city. If the residential rental dwelling unit becomes in violation of housing, building, plumbing, electrical, fire, health or related codes during the exemption period, the director may revoke the exemption granted by this section. (as added by Ord. #1-07, Jan. 2007)

13-508. <u>Powers of the director</u>. The director is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the following powers to:

(1) Investigate conditions in the city in order to determine which residential rental dwelling units therein are deteriorated or in the process of deteriorating.

(2) Administer oaths, affirmations, examine witnesses, issue subpoenas and receive evidence.

(3) Enter upon the premises for the purpose of making examinations and inspections; provided, the director may enter inside the dwelling unit only with the consent of the person in possession, or with a validly issued search warrant or administrative inspection warrant, or in the event of an emergency presenting an immediate threat to the health, safety, and welfare of the persons in possession. Such entry shall comply in all respects with the Fourth Amendment of the United States Constitution as well as Article I, Section 7, of the Tennessee Constitution. Such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession.

(4) Appoint and fix the duties of such officers, agents and employees as the City deems necessary to carry out the purposes of this chapter.

(5) Delegate any of such functions and powers under this chapter to such officers and agents as the director may designate. (as added by Ord. #1-07, Jan. 2007)

13-509. <u>No fee schedule</u>. No fee schedule shall be established to administer the provisions of this chapter. In addition, no fee shall be charged to an owner or party in interest for an inspection of a dwelling unit subject to this chapter who has submitted a written notification to the director as to the identity of such unit owner or party in interest as provided in § 13-505(2), nor shall a fee be charged for a subsequent inspection of a residential dwelling unit that has received an exemption from the residential inspection ordinance for a

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minimum of four (4) years pursuant to § 13-507. (as added by Ord. #1-07, Jan. 2007)

13-510. <u>Appeals</u>. An owner or party in interest may appeal any order of the city issued pursuant to this chapter to the board of building and housing code appeals. The owner or party in interest may request and shall be granted a hearing before the board, provided, that such person shall file in the office of the director a written petition completed pursuant to the rules, regulations and requirements of the board, within twenty (20) days after the date on which the order was served upon the owner or party in interest. (as added by Ord. #1-07, Jan. 2007)

13-511. <u>Powers supplemental</u>. Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the city to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law. (as added by Ord. #1-07, Jan. 2007)

13-512. <u>Failure to comply - penalty</u>. An owner or party in interest, upon willful failure or refusal to comply with the notice or inspection requirements authorized by this chapter, shall be subject to a penalty of fifty dollars (\$50.00) per day for each day of violation. (as added by Ord. #1-07, Jan. 2007)

CHAPTER 6

OAK RIDGE LAND BANK CORPORATION

SECTION

- 13-601. Legislative authority.
- 13-602. Findings.
- 13-603. Creation.
- 13-604. Board of directors.
- 13-605. Meetings, quorum, majority vote, officers, rules and regulations, removal, compensation, organization, minutes, report, audit.
- 13-606. Powers.
- 13-607. Taxation.
- 13-608. Real property inventory list.
- 13-609. Conveyance of property.
- 13-610. Priorities for the use of real property in the land bank.
- 13-611. Appeal procedure.
- 13-612. Dissolution.

13-601. <u>Legislative authority</u>. The city meets all requirements of, and is therefore authorized by, <u>Tennessee Code Annotated</u>, § 13-30-104(a)(1) to establish a pilot program by creating a land bank corporation in accordance with the provisions of the Tennessee Local Land Bank Pilot Program. [<u>Tennessee</u> <u>Code Annotated</u>, § 13-30-101 <u>et seq</u>.] (as added by Ord. #08-2013, Sept. 2013)

13-602. Findings. City Council finds and declares as follows:

(1) There is a need to strengthen and revitalize the economy by solving the problems of vacant, abandoned, and tax-delinquent real property and to foster the development of such property and promote economic growth.

(2) Disinvestment in real property results in a significant amount of vacant and abandoned real property which represents lost revenue to the city and high costs associated with demolition, as well as spreading neighborhood deterioration.

(3) A land bank can be an effective tool to facilitate the return of vacant, abandoned and tax delinquent real properties to productive use, thereby supporting economic revitalization.

(4) There is a need for a land bank to function within the jurisdictional boundaries of the City of Oak Ridge. (as added by Ord. #08-2013, Sept. 2013)

13-603. <u>Creation</u>. The Oak Ridge Land Bank Corporation is hereby created pursuant to the authority of the Tennessee Local Land Bank Pilot Program set forth in <u>Tennessee Code Annotated</u>, § 13-30-101 <u>et seq</u>. By such statute, the Oak Ridge Land Bank Corporation has authority to create a land bank for real property located with the boundaries of Oak Ridge. For purposes

of this chapter, "land bank" means real property, however obtained or acquired and held by the Oak Ridge Land Bank Corporation, with the intent of acquiring and holding on the real property so acquired until such time as the corporation is able to find a willing and able buyer to acquire the real property from the corporation. [Tennessee Code Annotated, § 13-30-101 <u>et seq.</u>, <u>Tennessee Code</u> <u>Annotated</u>, § 13-30-107] (as added by Ord. #08-2013, Sept. 2013)

13-604. <u>Board of directors</u>. (1) <u>Number and qualifications of directors</u>. The Oak Ridge Land Bank Corporation's Board of Directors shall consist of seven (7) directors, one (1) of which shall be a member of city council. All directors shall be electors and taxpayers in the City of Oak Ridge. Preference may be given for persons in the following fields: banking, real estate, and legal. [Tennessee Code Annotated, § 13-30-105]

(2) <u>Appointment of Directors</u>. Directors shall be appointed by city council using the election process for boards and commissions.

Terms of directors. The city council member shall serve until (3)expiration of his or her current term of office on city council at which point city council will appoint a councilmember to fill this vacancy. Of the remaining directors first appointed, three (3) directors shall serve through December 31, 2014, and three (3) directors shall serve through December 31, 2015, and thereafter the term of office shall be two (2) years commencing January 1. Effective with the appointments commencing January 2017, one (1) director (non-city council member) shall be appointed to serve a three (3) year term. Effective with the appointments commencing January 2018 two (2) directors (non-city council member) shall be appointed to serve three (3) year terms. Effective with the appointments commencing January 2019 and thereafter all directors (non-city council member) shall serve three (3) years terms. In case of resignation, death, or removal from office, another appointment will be made to finish out the unexpired term of office. Directors shall continue to serve beyond the end of the director's term until the director's successor has been appointed. [Tennessee Code Annotated § 13-30-105] (as added by Ord. #08-2013, Sept. 2013, and amended by Ord. #13-2016, Dec. 2016)

13-605. <u>Meetings, quorum, majority vote, officers, rules and</u> <u>regulations, removal, compensation, organization, minutes, report,</u> <u>audit</u>. (1) <u>Meetings</u>. The board shall meet in regular session according to a schedule adopted by the board, and shall also meet in special session as convened by the chairman or upon written notice signed by a majority of the members. [<u>Tennessee Code Annotated</u>, § 13-30-106]

(2) <u>Quorum</u>. The presence of a majority of the total board membership constitutes a quorum for the transaction of any business. [Tennessee Code <u>Annotated</u>, § 13-30-106]

(3) <u>Majority vote</u>. Unless a greater number or percentage is required by state law, the affirmative vote of a simple majority of the directors present and voting at any meeting at which a quorum is present shall be the action of the corporation. However, no action of the board shall be authorized on the following matters unless approved by a majority of the total board membership:

(a) Adoption of bylaws and other rules and regulations for conduct of the business of the corporation;

(b) Hiring or firing of any employee or contractor of the corporation; however, this function may be delegated by majority vote of the total board membership to a specified officer or committee of the corporation under such terms and conditions and to the extent specified by the board;

(c) The incurring of debt;

(d) Adoption or amendment of the annual budget; and

(e) Sale, lease, encumbrance, or alienation of real property, improvements, or personal property with a value of more than fifty thousand dollars (\$50,000.00).

Vote by proxy is not permitted. [Tennessee Code Annotated, § 13-30-106)

(4) <u>Officers, duties</u>. At the first meeting each year, the board of directors shall select from among themselves a chairman, a vice chairman, a treasurer, and such other officers as the board may determine, and shall establish their duties as may be regulated by rules adopted by the board. [Tennessee Code Annotated, § 13-30-106]

(5) <u>Rules and regulations, removal of member by board</u>. The board of directors shall establish rules and regulations relative to the attendance and participation of members in its meetings, regular or special. No rules or bylaws may contravene state law. Such rules and regulations may prescribe a procedure whereby, should any member fail to comply with such rules and regulations, such member may be disqualified and removed automatically from office by no less than a majority vote of the remaining members of the board, and that member's position shall be vacant as of the first day of the next calendar month. Any person removed under the provisions of this subsection shall be ineligible for reappointment to the board, unless such reappointment is confirm unanimously by the board. [Tennessee Code Annotated, § 13-30-106, Tennessee Code Annotated, §13-30-107]

(6) <u>Removal of member by city council</u>. Any citizen or group of citizens upon collection of a petition having a clearly worded purpose, of at least twenty (20) verified signatures of qualified, registered Oak Ridge voters may present to city council a resolution calling for the removal of any board member. City council shall have the power, upon timely and due consideration of the citizen petition and a response from the board, to remove or retain the cited board member by simply majority vote. Removal from the board of directors of any public official shall not, in and of itself, impair the public official in his or her other duties. [Tennessee Code Annotated, § 13-30-106)

(7) <u>Compensation</u>. Board members serve without compensation. [Tennessee Code Annotated, § 13-30-106) Change 5, June 11, 2018

(8) <u>Organization</u>. Board members have the power to organize and reorganize the executive, administrative, clerical, and other departments of the corporation and to fix the duties, powers, and compensation of all employees, agents, and consultants of the corporation. The board may reimburse any member for expenses actually incurred in the performance of duties on behalf of the corporation. [Tennessee Code Annotated, § 13-30-106]

(9) <u>Minutes</u>. The board of directors shall cause minutes and a record to be kept of all its proceedings and such records shall be available for timely public inspection. [<u>Tennessee Code Annotated</u>, § 13-30-112, <u>Tennessee Code</u> <u>Annotated</u>, §13-30-107]

(10) <u>Open meetings</u>. All meeting shall be open to the public with appropriate notice published in accordance with <u>Tennessee Code Annotated</u>, § 13-30-107(d). [<u>Tennessee Code Annotated</u>, § 13-30-112]

(11) <u>Annual report</u>. An annual report shall be filed with city council, containing a detailed financial accounting of the corporation's debt obligations, income (sources and amounts), properties, dispositions, expenditures, acquisitions, contracts (executed and pending within the next ninety (90) days), significant activities, and other data as required by the organizational bylaws and governance documents. This annual report shall be maintained on file for audit purposes and immediately available to the department of audit in the Office of the Comptroller of the Treasury upon request. Additionally, all such reports shall be available for public inspection. [Tennessee Code Annotated, § 13-30-112]

(12) <u>Annual audit</u>. An annual audit shall be made of the books and records of the corporation. A copy of the audit shall be filed annually with city council. [<u>Tennessee Code Annotated</u>, § 13-30-112(c) and (e)] (as added by Ord. #08-2013, Sept. 2013)

13-606. <u>Powers</u>. The Oak Ridge Land Bank Corporation has all powers as set forth in the Tennessee Local Land Bank Pilot Program except as limited by this chapter. [<u>Tennessee Code Annotated</u>, § 13-30-101 <u>et seq</u>.] (as added by Ord. #08-2013, Sept. 2013)

13-607. <u>**Taxation.**</u> By <u>Tennessee Code Annotated</u>, § 13-30-104 the Oak Ridge Land Bank Corporation is performing a public function on behalf of the city and is a public instrumentality of the city. Accordingly, the Oak Ridge Land Bank Corporation and all properties of the corporation, including all properties held in the name of the corporation in the land bank, at any and all times owned by it, and the income and revenues from the properties are exempt from all taxation in the State of Tennessee. (as added by Ord. #08-2013, Sept. 2013)

13-608. <u>Real property, inventory list</u>. The Oak Ridge Land Bank Corporation shall hold in its own name all real property acquired by the Change 5, June 11, 2018

corporation for the land bank irrespective of the identity of the transferor of such property.

The Oak Ridge Land Bank Corporation shall comply with the provisions of <u>Tennessee Code Annotated</u>, § 13-30-111 which includes, but is not limited to, maintenance of an inventory for all real property held by the corporation, and establishment of terms and conditions for consideration to be received by the corporation for property transfers. (as added by Ord. #08-2013, Sept. 2013)

13-609. <u>Conveyance of property</u>. The Oak Ridge Land Bank Corporation may convey, exchange, sell, transfer, lease as lessee, grant, release and demise, pledge and hypothecate any and all interests in, upon or to real property of the land bank. All land bank properties shall be sold or leased at fair market value. [<u>Tennessee Code Annotated</u>, § 13-30-111(d)] (as added by Ord. #08-2013, Sept. 2013)

13-610. <u>Priorities for the use of real property in the land bank.</u> City council is authorized by <u>Tennessee Code Annotated</u>, § 13-30-111(e) to establish a hierarchical ranking of priorities for the use of real property conveyed to the Oak Ridge Land Bank Corporation as part of the land bank. City council may establish such priorities by resolution. (as added by Ord. #08-2013, Sept. 2013)

13-611. <u>Appeal procedure</u>. City council hereby establishes the following appeal procedure for any person aggrieved by the decision of the Oak Ridge Land Bank Corporation with respect to real property proposed for acquisition or acquired by, held, and disposed of by the Oak Ridge Land Bank Corporation.

The board of building and housing code appeals shall act as the appeals committee required by <u>Tennessee Code Annotated</u>, § 13-30-118 and all procedures set forth therein shall be followed for these appeals. (as added by Ord. #08-2013, Sept. 2013)

13-612. <u>Dissolution</u>. The Oak Ridge Land Bank Corporation may be dissolved in accordance with general law for the dissolution of a public corporation absent any establishment by city council for dissolution of the corporation. [Tennessee Code Annotated, § 13-30-113] (as added by Ord. #08-2013, Sept. 2013)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

- 1. MUNICIPAL PLANNING COMMISSION.
- 2. SUBDIVISIONS.
- 3. ZONING.
- 4. FLOODPLAIN MANAGEMENT MEASURES.
- 5. STORMWATER MANAGEMENT.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION¹

SECTION

- 14-101. Created.
- 14-102. Composition; appointment of members; term.
- 14-103. Powers, duties and functions; generally.
- 14-104. Adoption of rules.
- 14-105. Designation and term of officers.
- 14-106. Meetings, quorum.
- 14-107. Capital improvements plan submittal.
- 14-108. Compensation.
- 14-109. Training and continuing education.

14-101. <u>Created</u>. There is hereby created the Oak Ridge Municipal Planning Commission for the city pursuant to the provisions of <u>Tennessee Code</u> <u>Annotated</u>, § 13-4-101. (Ord. #6-04, Feb. 2004)

14-102. <u>Composition: appointment of members: term</u>. The municipal planning commission shall consist of ten (10) members; one (1) member shall be the mayor or the mayor's designee, one (1) member shall be a member of city council selected by a majority vote of city council, and the remaining eight (8) members shall be appointed by the mayor, which appointments shall be made by the mayor after receiving a recommendation from city council. Except for initial appointments, the terms of the eight (8) members appointed by the mayor shall be for a term of four (4) years each. The eight (8) members first appointed shall be appointed for initial terms as follows: two (2) members for a term of one (1) year, two (2) members for a term of two (2)

¹Municipal code reference

Boards and commissions: title 2.

years, two (2) members for a term of three (3) years, and the remaining two (2) members for a term of four (4) years, so that the term of two (2) members will expire each year. The term of the mayor or the mayor's designee shall run concurrently with the mayor's term of office. The term of the city council member serving on the commission shall be two (2) years, or at the expiration of the member's city council term of office, whichever occurs first. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor in the same manner as regular appointments are made. Members of the Oak Ridge Municipal Planning Commission may be removed for any or no cause by the mayor after receiving a recommendation of city council. (Ord. #6-04, Feb. 2004)

14-103. <u>Powers, duties and functions; generally</u>. The powers, duties and functions of the municipal planning commission shall be as prescribed by state law for municipal planning commissions, located in <u>Tennessee Code</u> <u>Annotated</u>, title 13, chapter 4. (Ord. #6-04, Feb. 2004)

14-104. <u>Adoption of rules</u>. The municipal planning commission shall adopt rules for the conduct of its authorized activities, insofar as such rules are not in conflict with the laws of the State of Tennessee, the city's charter and the ordinances of the city. If required by city charter, such rules, including any bylaws, shall not be effective unless approved by city council. (Ord. #6-04, Feb. 2004)

14-105. <u>Designation and term of officers</u>. The municipal planning commission shall elect from its membership a chairperson, a vice-chairperson and a secretary. The term of the chairperson shall be one (1) year with eligibility for reelection. (Ord. #6-04, Feb. 2004)

14-106. <u>Meetings, quorum</u>. The municipal planning commission shall hold public meetings at such regular intervals and places as it may designate. A majority of the commission shall constitute a quorum for the transaction of business, and all actions shall require the concurring vote of a majority of the members present. (Ord. #6-04, Feb. 2004)

14-107. <u>Capital improvements plan submittal</u>. The municipal planning commission shall submit to city council, in accordance with the city charter, a long-term capital improvement program with recommendations as to the priority of individual projects and the methods of financing them. (Ord. #6-04, Feb. 2004)

14-108. <u>Compensation</u>. All members of the municipal planning commission shall serve without compensation, but may be reimbursed for necessary expenses incurred in official duties. (Ord. #6-04, Feb. 2004)

14-109. <u>**Training and continuing education**</u>. The members of the municipal planning commission shall comply with the training and continuing education requirements set forth in <u>Tennessee Code Annotated</u>, title 13, chapter 4. (Ord. #6-04, Feb. 2004)

CHAPTER 2

SUBDIVISIONS

SECTION

- 14-201. Planning commission regulations--continued in effect.
- 14-202. Planning commission regulations--copies to be on file in the city clerk's office.

14-201. <u>Planning commission regulations--continued in effect</u>. Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of the subdivision regulations and industrial subdivision regulations promulgated by the Oak Ridge Municipal Planning Commission and approved by ordinances of the city council, or any amendments to such regulations approved by ordinance, and such regulations and ordinances are hereby recognized as continuing in full force and effect. (1969 Code, § 21-1, as amended by Ord. #6-04, Feb. 2004)

14-202. <u>Planning commission regulations--copies to be file in the</u> <u>city clerk's office</u>. A certified copy of the regulations referred to in § 14-201 shall be kept on file in the office of the city clerk where they shall be available for public inspection and use at all times during the business hours of such office. (1969 Code, § 21-2)

CHAPTER 3

ZONING

SECTION

14-301. Zoning code and ordinances continued in effect.

14-301. <u>Zoning code and ordinances continued in effect</u>. Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of the city's zoning code, being Part VI, Chapters 1 through 11, of the Oak Ridge Municipal Code, 1963, or any ordinance amending said zoning code or any ordinance amending the zoning map of the city or zoning or rezoning specific property in the city, and said zoning code and all such ordinances are hereby recognized as continuing in full force and effect. (1969 Code, § 26-1)

CHAPTER 4

FLOODPLAIN MANAGEMENT MEASURES

SECTION

- 14-401. Areas of special flood hazard.
- 14-402. Development permit required.
- 14-403. Standards of construction.
- 14-404. Interpretation of boundaries.
- 14-405. Appeals and variances.
- 14-406. Conflicting provisions.
- 14-407. Liability not created.

14-401. <u>Areas of special flood hazard</u>. Areas of special flood hazard identified by the Federal Insurance Administration in its flood hazard and flood insurance rate boundary maps, number 475441B, revised July 23, 1976, and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. Nothing in this chapter shall repeal or modify provisions of the floodway zone and floodway fringe regulations as set forth in the Oak Ridge Zoning Ordinance (Ordinance Number 13-66, April 29, 1966; Ordinance No. 40-68, November 14, 1968; and any subsequent amendments thereto). (1969 Code, § 9-301)

14-402. <u>Development permit required</u>. A development permit shall be required for all development in any area of special flood hazard, defined as any human-made change to improved or unimproved real estate, including but not limited to mining, dredging, grading, paving or drilling, in addition to excavation, filling or building, for which a zoning compliance permit is required under other ordinance provisions. Such permits shall be reviewed to assure that all other necessary permits have been or will be provided. Copies of all such permits shall be maintained on file with the development permit. Development permits or zoning compliance permits in areas of special flood hazard shall show:

(1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures, and elevation of the one-hundred year flood (base flood) at the location of such structures.

(2) Elevation to which any nonresidential structure has been floodproofed.

(3) Certificate from a registered professional engineer or architect that any nonresidential floodproofed structure meets the floodproofing criteria of this chapter.

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development, subject to established procedures for a review of such proposals. (1969 Code, § 9-302) **14-403.** <u>Standards of construction</u>.¹ In areas of special flood hazard, the following standards shall apply:

(1) <u>General</u>. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage, anchored to prevent flotation, collapse or lateral movement, [and shall be] constructed by methods and practices that minimize flood damage. Any alteration, repair, reconstruction or improvements to a structure on which construction began after the effective date of this chapter shall meet the requirements for "new construction" above.

(2) All new and replacement water and sanitary sewer systems shall be designed to eliminate or minimize infiltration of floodwaters into the systems, and any discharges from sanitary sewer systems into floodwaters. On-site waste disposal systems shall be prohibited in flood hazard areas.

(3) Any new construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at least one foot above the base flood level. Any new construction or substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot above the base flood level or, together with attendant utility and sanitary facilities, shall be floodproofed, as provided in other ordinances, and shall have the certification of a registered professional engineer or architect that the structure is watertight below the base flood level, with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(4) In any mobile home parks located within areas of special flood hazard, the following standards shall be met:

(a) Mobile home anchors and mobile home ties shall meet the standards established by federal, state or local codes, whichever are more stringent.

(b) Mobile home spaces shall be elevated on compacted fill or pilings so that the lowest floor of the mobile home shall be at least one foot above the base flood level; any piling foundation shall be placed in stable soil no more than ten (10) feet apart; and any pilings more than six (6) feet above ground level shall be reinforced. (1969 Code, § 9-303)

14-404. <u>Interpretation of boundaries</u>. Where interpretation is needed as to the exact location of the boundaries of special flood hazard, the Oak Ridge City Manager or his authorized representative shall make the necessary interpretation. (1969 Code, § 9-304)

¹Municipal code reference

Building, utility and housing codes: title 12.

14-405. <u>Appeals and variances</u>. (1) The board of zoning appeals is hereby designated to hear and decide appeals and requests for variances from the requirements of this chapter. In passing upon such appeals or variance requests, the board of zoning appeals shall consider all technical evaluations, relevant factors and standards; danger that materials may be swept onto other lands to the injury of others; danger to life and property due to flooding or erosion damage; any alternative locations, not subject to flooding, for the proposed use; susceptibility of the proposed use to flooding or erosion damage; safety of access at all times for ordinary and emergency vehicles; compatibility of the proposed use with other city plans, the floodplain management program or existing or proposed development; costs of providing governmental services during and after flood conditions; and such other flood-related factors as the board may deem relevant.

(2) Variances may be approved only if the variance would not result in increased flood levels or in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud to or victimization of the public, or conflict with existing local laws or ordinances.

(3) Records shall be kept and procedures followed as with the requirements for other actions of the board of zoning appeals. (1969 Code, \S 9-305)

14-406. <u>Conflicting provisions</u>. Whenever provisions of this chapter are in conflict with those of another city ordinance or code, the more strict provision shall govern. (1969 Code, § 9-306)

14-407. <u>Liability not created</u>. The degree of flood protection required by this chapter and other city ordinances and regulations 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 human-made or natural causes. This chapter and other city ordinances and regulations do not imply that land outside areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. These ordinances and regulations shall not create liability on the part of the City of Oak Ridge or by any officer or employee thereof for any flood damages that result from reliance on these ordinances or any administrative decision lawfully made thereunder. (1969 Code, § 9-307)

CHAPTER 5

STORMWATER MANAGEMENT¹

SECTION

- 14-501. General provisions
- 14-502. Definitions.
- 14-503. Land disturbance permits.
- 14-504. Waivers.
- 14-505. Stormwater system design: construction and permanent stormwater management.
- 14-506. Permanent stormwater management: operation, maintenance, and inspection.
- 14-507. Existing locations and ongoing developments.
- 14-508. Illicit discharges.
- 14-509. Enforcement.
- 14-510. Penalties.
- 14-511. Appeals from decisions of city manager or the city manager's designee.
- 14-512. Appeal of damage assessment or civil penalty.
- 14-513.--14-515. Deleted.

14-501. <u>**General provisions.**</u> (1) <u>Purpose</u>. It is the purpose of this chapter to:

(a) Protect, maintain, and enhance the environment of the city and the public health, safety and the general welfare of the citizens of the city by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city;

(b) Enable the city to comply with the National Pollution Discharge Elimination System permit (NPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges; and

(c) Allow the city to exercise the powers granted in <u>Tennessee</u> <u>Code Annotated</u>, § 68-221-1105, which provides that, among other powers cities have with respect to stormwater facilities, is the power by ordinance or resolution to:

(i) Exercise general regulation over the planning, location, construction, and operation and maintenance of

¹Municipal code reference

Water and sewers: title 18.

stormwater facilities in the city, whether or not owned and operated by the city;

(ii) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

(iii) Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

(iv) Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments;

(v) Issue permits for stormwater discharges, or for the construction, alteration, extension, or repair of stormwater facilities;

(vi) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

(vii) Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated; and

(viii) Expend funds to remediate or mitigate the detrimental effects of contaminated land or other sources of stormwater contamination, whether public or private.

(2) <u>Administering entity</u>. The city manager or the city manager's designee shall administer the provisions of this chapter.

(3) <u>Stormwater management ordinance</u>. The intended purpose of this ordinance is to safeguard property and public welfare by regulating stormwater drainage and requiring temporary and permanent provisions for its control. It should be used as a planning and engineering implement to facilitate the necessary control of stormwater. (Ord. #7-98, Feb. 1998, § 1, as replaced by Ord. #1-2016, March 2016)

14-502. <u>Definitions</u>. For the purpose of this chapter, the following definitions shall apply: Words used in the singular shall include the plural, and the plural shall include the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined in this section shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of <u>Webster's Dictionary</u>.

(1) "Administrative or civil penalties." Under the authority provided in <u>Tennessee Code Annotated</u>, § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars (\$50.00) and not more than five-thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(2) "As built plans" means drawings depicting conditions as they were actually constructed.

(3) "Best Management Practices" (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(4) "Borrow pit" is an excavation from which erodible material (typically soil) is removed to be fill for another site. There is no processing or separation of erodible material conducted at the site. Given the nature of activity and pollutants present at such excavation, a borrow pit is considered a construction activity for the purpose of this permit.

(5) "Buffer zone" means a strip of dense undisturbed perennial native vegetation, either original or reestablished, that borders each bank of a stream, river, pond, lake, wetland, etc. Buffer zones are established for the purpose of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the upland area and reaching surface waters. Buffer zones are primarily established for the purpose of protecting water quality and maintaining a healthy aquatic ecosystem in receiving waters.

(6) "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

(7) "City" means the City of Oak Ridge, Tennessee.

(8) "City manager" means the city manager of Oak Ridge who has the authority to delegate to designated staff, which includes, but is not limited to, staff engineers and stormwater inspectors.

(9) "Clearing" typically refers to the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. Clearing may also cover a wide variety of uses, many of which may not be regulated with the scope of stormwater management.

(10) "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(11) "Design storm event" means a hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

(12) "Discharge" means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

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(13) "Easement" means an acquired privilege or right of use or enjoyment that a person, party, firm, corporation, city or other legal entity has in the land of another.

(14) "Erosion" means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by human activities or effects.

(15) "Erosion prevention and sediment control plan" (EPSCP) means a written plan (including drawings or other graphic representations) that is designed to minimize the erosion and sediment runoff at a site during construction activities.

(16) "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Hotspots include, but are not limited to: garages, repair shops, junk yards, detailing shops, car wash waste water, restaurants (where grease traps are maintained), commercial properties with large paved parking areas, factories, retail facilities, manufacturing plants, storage lots, maintenance areas, sanitary wastes water, effluent from septic tanks and alternate sewer systems, carpet cleaning waste water, laundry waste water/gray water, and household toxics.

(17) "Illicit connections" means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

(18) "Illicit discharge" means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under § 14-507(2).

(19) "Improved sinkhole" is a natural surface depression that has been altered in order to direct fluids into the hole opening. Improved sinkhole is a type of injection well regulated under TDEC's Underground Injection Control (UIC) program. Underground injection constitutes an intentional disposal of waste waters in natural depressions, open fractures, and crevices (such as those commonly associated with weathering of limestone).

(20) "Inspector" An inspector is a person that has successfully completed (has a valid certification from) the "Fundamentals of Erosion Prevention and Sediment Control Level 1" course or equivalent course. An inspector performs and documents the required inspections, paying particular attention to time-sensitive permit requirements such as stabilization and maintenance activities. An inspector may also have the following responsibilities:

(a) Oversee the requirements of other construction-related permits, such as Aquatic Resources Alteration Permit (ARAP) or Corps of Engineers permit for construction activities in or around waters of the state;

(b) Update field stormwater pollution prevention plan (SWPPP);

(c) Conduct pre-construction inspection to verify that undisturbed areas have been properly marked and initial measures have been installed; and

(d) Inform the permit holder of activities that may be necessary to gain or remain in compliance with the Construction General Permit (CGP) and other environmental permits.

(21) "Land disturbing activity" means any activity on property that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, redevelopment, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

(22) "Maintenance" means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

(23) "Maintenance agreement" means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

(24) "Municipal separate storm sewer system" (MS4) means the conveyances owned or operated by the city for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, man made channels, and storm drains, and where the context indicates, it means the municipality that owns the separate storm sewer system.

(25) "National Pollutant Discharge Elimination System permit" or a "NPDES permit" means a permit issued pursuant to 33 U.S.C. 1342.

(26) "Off-site facility" means a structural BMP located outside the subject property boundary described in the permit application for land development activity.

(27) "Peak flow" means the maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

(28) "Person" means any and all persons, natural or artificial, including any individual, firm or association and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(29) "Priority construction activity" means any construction activities discharging directly into or immediately upstream of waters of the state recognizes as impaired (for siltation or habitat alteration) or Exceptional Tennessee waters.

(30) "Planning commission" means the City of Oak Ridge Municipal Planning Commission.

(31) "Runoff" means that portion of the precipitation on a drainage area that is discharged from the area into the municipal separate storm sewer system.

(32) "Sediment" means solid material, both inorganic and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

(33) "Sedimentation" means soil particles suspended in stormwater that can settle in stream beds.

(34) "Soils report" means a study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees conducting the investigation.

(35) "Stabilization" means providing adequate measures, vegetative and/or structural, that will prevent erosion from occurring.

(36) "Stormwater" means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

(37) "Stormwater entity" means the entity designated by the city to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by the city.

(38) "Stormwater management" means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

(39) "Stormwater management facilities" means the drainage structures, conduits, ponds, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated or disposed of.

(40) "Stormwater management plan" means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels.

(41) "Stormwater pollution prevention plan" (SWPPP) means a written plan that includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. It must be prepared and approved before construction begins. In order to effectively reduce erosion and sedimentation impacts, Best Management Practices (BMPs) must be designed, installed, and maintained during land disturbing activities. The SWPPP should be prepared in accordance with the current <u>Tennessee Erosion and Sediment Control Handbook</u>. The handbook is intended for use during the design and construction of projects that require erosion and sediment controls to protect waters of the state. It also aids in the development of SWPPPs and other reports, plans, or specifications required when participating in Tennessee's water quality regulations. All SWPPPs shall be prepared and updated in accordance with section 3 of the General NPDES Permit for Discharges of Stormwater Associated with Construction Activities.

(42) "Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

(43) "Stream" means a surface water that is not a wet weather conveyance as defined herein.

(44) "Structural BMPs" means facilities that are constructed to provide control of stormwater runoff.

(45) "Surface water" includes waters upon the surface of the earth in bounds created naturally or artificially including, but not limited to, streams, other water courses, lakes and reservoirs.

(46) "TDEC manuals" means the current sediment and erosion control and post construction manuals approved by the State of Tennessee Department of Environment and Conservation (TDEC) for stormwater system design and installation.

(47) "Turbidity" means the cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye, similar to smoke in air.

(48) "Waste site" means an area where waste material from a construction site is deposited. When the material is erodible, such as soil, the site must be treated as a construction site.

(49) "Water quality buffer" see "buffer."

(50) "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(51) "Watershed" means all the land area that contributes runoff to a particular point along a waterway.

(52) "Waters" or "waters of the state" means any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through, or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

(53) "Wetland(s)" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs, and similar areas.

(54) "Wet weather conveyances" are man-made or natural watercourses, including natural watercourses that have been modified by channelization, that flow only in direct response to precipitation runoff in their immediate locality and whose channels are above the groundwater table and are not suitable for

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drinking water supplies; and in which hydrological and biological analyses indicate that, under normal weather conditions, due to naturally occurring ephemeral or low flow, there is not sufficient water to support fish or multiple populations of obligate lotic aquatic organisms whose life cycle includes an aquatic phase of at least two (2) months. (Rules and Regulations of the State of Tennessee, chapter 1 200-4-3-.04(3)). (Ord. #7-98, Feb. 1998, § 2, as replaced by Ord. #1-2016, March 2016)

14-503. <u>Land disturbance permits</u>. (1) <u>When required</u>. Every person will be required to obtain a land disturbance permit from the city Manager or the city manager's designee in the following cases:

(a) Land disturbing activity that disturbs one (1) or more acres of land;

(b) Land disturbing activity of less than one (1) acre of land if such activity is part of a larger common plan of development that affects one (1) or more acre of land;

(c) Land disturbing activity of less than one (1) acre of land, as provided below, or if in the discretion of the city manager or the city manager's designee such activity poses a unique threat to water, or public health or safety. Projects or developments of less than one (1) acre of total land disturbance may also be required to obtain authorization under this permit if:

(i) The city manager or the city manager's designee has determined that the stormwater discharge from a site is causing, contributing to or is likely to contribute to a violation of a state water quality violation.

(ii) The city manager or the city manager's designee has determined that a stormwater discharge is, or is likely to be a significant contributor of pollutants to waters of the state.

(iii) Changes in state or federal rules require sites of less than one (1) acre that are not part of a larger common plan of development or sale to obtain a stormwater permit.

(iv) Any new development or redevelopment, regardless of size, that is defined by the city manager or the city manager's designee to be a hot spot land use.

(d) The creation and use of borrow pits where material is excavated and relocated offsite, and fill sites where materials or earth is deposited by mechanized methods resulting in an increase elevation or grade.

(e) Land disturbance for single or duplex residential lots of any size are required to obtain a land disturbance permit. As determined by the city manager or the city manager's designee, lots that have karst features, adjoining lakes or streams, slopes exceeding fifteen percent (15%), floodplains or streams to cross are required to submit an erosion

control and stormwater management plan. Depending on site specific conditions the requirement that the plan be developed by a qualified licensed professional engineer or architect may be waived by the city manager or the city manager's designee. Minimal plan requirements shall include pre- and post-stormwater runoff directions, construction access, erosion/sediment control measures, roof downspout direction and termination, swales and temporary and/or permanent soil stabilization.

(f) Land disturbance activities in a city floodway zoning districts require a permit and shall provide evidence of obtaining appropriate licenses/permits that may be required by federal or state laws and regulations, or written wavier from such permits and licenses prior to the issuance of a land disturbance permit by the city manager or the city manager's designee.

(g) If the city manager or the city manager's designee determines that construction activity is ongoing, but is not permitted, the city manager or the city manager's designee must notify TDEC of this situation by supplying the following information to the Knoxville Environmental Field Office:

(i) Construction project or industrial facility location.

(ii) Name of the operator or owner.

(iii) Estimated construction project or size or type industrial activity (including the Standard Industrial Classification (SIC) code, if known).

(iv) Records of communications with the owner or operator.

(2)Existing areas with soil erosion problems. Upon written notification from the city manager or the city manager's designee, the owner of any parcel of land which exhibits unstable or eroding soil conditions and impacts downstream properties or any stream shall correct the problem within a sixty (60) calendar day period. Upon written request to the city manager or the city manager's designee, the period for construction may be extended upon request if seasonal conditions warrant and temporary control measures are installed. Slopes which are found to be eroding excessively shall be provided stabilizing measures until the problem is corrected. Minimum corrective measures may include stabilizing slopes and revegetating all exposed soil surfaces. Before commencing corrective measures, the owner shall consult with the city manager or the city manager's designee to determine an acceptable method of correction. A plan for soil erosion control shall be submitted to the city manager or the city manager's designee for final review and approval prior to initiation of corrective measures.

(3) <u>Building permit</u>. No building permit shall be issued until the applicant has obtained a land disturbance permit where the same is required by this ordinance.

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(4) <u>Exemptions</u>. The following activities are exempt from the permit requirement:

(a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(b) Any installation, maintenance or repair of any underground public utility provided that all erosion control and stormwater management requirements of this ordinance are met.

(c) Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(d) Any logging or agricultural activity that is consistent with an approved farm conservation plan or a timber management plan prepared or approved by the appropriate federal or state agency.

(e) The owner or developer whose land disturbing activity has been exempted from requirements for registration shall nevertheless be responsible for otherwise conducting such activity in accordance with the provisions of this ordinance and other applicable laws including responsibility for controlling erosions and sedimentation.

(f) Any construction of foundation drains, french drains, extension of roof drains and minor building additions if not otherwise required in this section and unless the possibility of erosion, stream siltation or impact to downstream properties is such to necessitate a permit as determined by the city manager or the city manager's designee.

(g) Any home gardens, home landscaping, or land preparation unless the possibility of erosion or stream siltation is such to necessitate a permit as determined by the city manager or the city manager's designee.

(5) <u>Limitations</u>. The city manager or the city manager's designee shall not grant land disturbance coverage for discharges into waters that are designated by the water quality control board as "Outstanding National Resource Waters" (ONRW). An individual permit is required for land disturbance activities and is available from TDEC.

(6) <u>Application for a land disturbance permit</u>. Each application shall include the following:

(a) Name of applicant;

(b) Business or residence address of applicant;

(c) Name, address and telephone number of the owner of the property of record in the office of the assessor of property;

(d) Address and legal description of subject property including the tax reference number and parcel number of the subject property;

(e) Name, address and telephone number of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;

(f) A statement indicating the nature, extent and purpose of the land disturbing activity including the size of the area for which the

permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity;

(g) Where the property includes a sinkhole, the applicant shall obtain appropriate permits from the TDEC;

The applicant shall obtain from any other state or federal (h) agency any other appropriate environmental permits that pertain to the property. If Aquatic Resource Alteration Permits (ARAP) are required for a site in areas proposed for active construction, the Notice of Coverage (NOC) will not be issued until ARAP application(s) are submitted and deemed by TDEC to be complete. The treatment and disposal of wastewater (including, but not limited to sanitary wastewater) generated during and after the construction must also be addressed. The issuance of the Notice of Coverage (NOC) may be delayed until adequate wastewater treatment and accompanying permits are issued. The inclusion of any such permits in the application shall not prevent the city from imposing additional development requirements and regulations of the city on the development of property covered by those permits; however, the inclusion of those permits in the application shall not prevent the city manager or the city manager's designee from imposing additional development requirements and conditions, commensurate with this ordinance, on the development of property covered by those permits; and

(i) Each application shall be accompanied by:

(i) A commercial or residential land disturbance permit application.

(ii) A sediment and erosion control plan that meets the criteria set forth by this ordinance and/or the city manager or the city manager's designee. Single family or duplex residential land disturbance of less than one (1) acre is exempt from submission of the sediment and erosion control plan unless otherwise required in this ordinance.

(iii) A stormwater management plan approved by the city manager or the city manager's designee.

(iv) Each application for a land disturbance permit shall be accompanied by payment of land disturbance permit and other stormwater management fees, which shall be set by the city manager or the city manager's designee as provided for under city code §1-203. No permit or amendment to a permit shall be valid until such fees have been paid.

(7) <u>Review and approval of application</u>. (a) The city manager or the city manager's designee, within a reasonable amount of time after receipt, will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. After the review of

an application, the city manager or the city manager's designee shall provide one (1) of the following responses:

(i) Approval of the permit application;

(ii) Conditional approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issue the permit subject to these conditions; or

(iii) Denial of the permit application, indicating the reason(s) for the denial.

(b) If the city manager or the city manager's designee has granted conditional approval of the permit, the applicant shall submit a revised plan that conforms to the conditions established by the city manager or the city manager's designee. The applicant may be allowed to proceed with his land disturbing activity so long as it conforms to conditions established by the city manager or the city manager's designee.

(c) No development plans will be released until the land disturbance permit has been approved.

(d) Disclaimer of liability. Neither the submission of a plan under the provisions herein, nor compliance with the provisions of these regulations shall relieve any person from responsibility for damages to any person or property otherwise imposed by law, nor impose any liability upon the City of Oak Ridge or its representatives for damages to any person or property.

(8) <u>Permit duration</u>. Every land disturbance permit may expire and become null and void if in the judgment of the city manager or the city manager's designee substantial work authorized by such permit has not commenced within one-hundred eighty (180) calendar days of issuance, or has not been completed within an amount of time deemed reasonable by the city manager or the city manager's designee.

(9) <u>Notice of construction</u>. The applicant must notify the city manager or the city manager's designee at least three (3) working days in advance of the commencement of construction.

(10) <u>Performance bonds</u>. (a) The city manager or the city manager's designee may require the submittal of a performance security or performance bond, if greater than two and one-half (2.5) acres of land disturbance, prior to issuance of a permit in order to ensure that the stormwater practices are installed and maintained by the permit holder as required by the approved stormwater management plan. The bond provider shall be responsible to keep the bond in effect until such time the bond is released by the city manager or the city manager's designee. In the event the bond provider allows the bond to expire, the bond provider shall be responsible for the cost of completion of the work required by the permit and be responsible for any damages resulting from non-completion

of the work. The amount of the installation performance security or performance bond shall be the total estimated construction cost for the structural BMPs and associated maintenance cost for the duration of the project, approved under the permit plus any reasonably foreseeable additional related costs, e.g., for damages or enforcement (or plus a certain percentage of the total estimated costs). The performance security shall contain forfeiture provisions for failure to complete work specified in the stormwater management plan. The applicant shall provide an itemized construction cost estimate complete with unit prices which shall be subject to acceptance, amendment or rejection by the city manager or the city manager's designee. Alternately, the city manager or the city manager's designee shall have the right to require that a professional engineer prepare the cost or to calculate the cost estimates.

(b) The performance security or performance bond shall be released in full only upon approval of the city manager or the city manager's designee. Submission of as-built plans and written certification by a registered professional engineer licensed to practice in Tennessee that the structural BMP has been installed in accordance with the approved plan and other applicable provisions of this ordinance may be required at the discretion of the city manager or the city manager's designee. The city manager or the city manager's designee may make a final inspection of the structural BMP to ensure that it is in compliance with the approved plan and the provisions of this ordinance. Provisions for a partial pro-rata release of the performance security or performance bond based on the completion of various development stages may be made at the discretion of the city manager or the city manager's designee. It shall be the responsibility of the applicant to secure and renew the bond as necessary. Failure to obtain a timely renewal of bond shall result in revocation of the permit and/or the issuance of a stop work order.

(11) <u>Transfer of ownership</u>. (a) Some construction projects are subdivided, such as residential or commercial subdivisions and/ or developments or industrial parks. Subdivided lots are sometimes sold to new owners prior to completion of construction. The site wide developer/owner must describe erosion control and sediment prevention measures implemented at those lots. Once the property is sold, the new operator must obtain coverage under this permit.

(b) If the transfer of ownership is due to foreclosure or a permittee filing for bankruptcy proceedings, the new owner (including but not limited to a lending institution) must obtain permit coverage if the property is inactive, but is not stabilized sufficiently. If the property is sufficiently stabilized permit coverage may not be necessary, unless and until construction activity at the site resumes.

(12) <u>Inspections</u>. (a) The permit holder shall perform inspections of erosion prevention and sediment control practices on all construction

sites as indicated by the current, "NPDES Permit for Discharges Associated with Construction Activities" twice weekly and at least seventy-two (72) hours apart (3.5.8.2). This standard is the same for "priority construction sites." Based on the results of the inspections, any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, before the next rain event if possible. Inspections should be documented. Quality assurance of erosion prevention and sediment controls shall be done by performing site assessment at a construction site. The site assessment shall be conducted at each outfall involving drainage totaling ten (10) acres or more (of disturbed and undisturbed acreage combined) or five (5) or more acres if draining to impaired or exceptional quality waters, within one (1) month of construction commencing. The site assessment shall be performed by individuals with one (1) or more of the following qualifications:

(i) A licensed professional engineer or landscape architect;

(ii) A Certified Professional in Erosion and Sediment Control (CPESC); or

(iii) A person that has successfully completed the "Level II Design Principles for Erosion Prevention and Sediment Control for Construction Sites" course.

As a minimum, a site assessment should be performed to verify the installation, functionality and performance of the erosion prevention and sediment control measures described in the SWPPP. The site assessment findings shall be documented and the documentation kept with the SWPPP on site. The site assessment should be performed with the site inspector, and should include a review and update (if applicable) of the SWPPP. Modifications of plans and specifications for any building or structure, including the design of sediment basin or other sediment controls involving structural, hydraulic, hydrologic or other engineering calculations shall be performed by a licensed engineer or landscape architect and stamped and certified in accordance with state law. The site assessment can take the place of one of the twice weekly inspections.

(b) The city manager or the city manager's designee shall perform inspections on priority construction sites, and other construction sites as warranted by site location and complaints. If the city manager or the city manager's designee finds that the permit holder has failed to properly install, maintain, or use proper structural and/or vegetative erosion and sediment control practices as specified in the erosion and sediment control plan and the post construction design and maintenance plan, the permit holder may be subject to a notice of violation order or additional penalties as set forth in this chapter.

(c) The city manager or the city manager's designee may require an inspection by a registered engineer licensed in the State of Tennessee, if deemed necessary, for any erosion and sediment control measure or post construction stormwater management facility to ensure they meet the design standards as described in the construction site and post construction site plans.

(d) If the city manager or the city manager's designee determines that significant erosion and/or sedimentation is occurring on a graded site despite approved structural and/or vegetative erosion and sediment control practices, the city manager or the city manager's designee shall require the permit holder to take additional corrective action to protect the adversely affected area. The additional corrective action required shall be part of an amended erosion and sediment control plan.

(e) Where sites or portions of construction sites have been temporarily stabilized, or runoff is unlikely due to winter conditions (e.g., site covered with snow or ice) or due to extreme drought, such inspection only has to be conducted one (1) per month until thawing or precipitation results in runoff or construction activity resumes. Inspection requirements do not apply to definable areas that have been finally stabilized.

(f) Inspections and maintenance for post construction stormwater facilities shall be performed as required in § 14-506 for permanent construction design and maintenance. (Ord. #7-98, Feb. 1998, § 3, and replaced by Ord. #1-2016, March 2016)

14-504. <u>Waivers</u>. (1) <u>General</u>. No waivers will be granted any construction or site work project. All construction and site work shall provide for stormwater management as required by this ordinance. However, alternatives to the 2010 NPDES General Permit for Discharges from MS4s primary requirement for onsite permanent stormwater management may be considered, if:

(a) Management measures cannot be designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one-hundred percent (100%) managed with no discharge to surface waters.

(b) It can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this chapter. Alternative minimum requirements for onsite management of stormwater discharges have been established in a stormwater management plan that has been approved by the city manager or the city manager's designee.

(2) <u>Downstream damage, etc. prohibited</u>. In order to receive consideration, the applicant must demonstrate to the satisfaction of the city

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manager or the city manager's designee that the proposed alternative will not lead to any of the following conditions downstream:

(a) Deterioration of existing culverts, bridges, dams, and other structures;

(b) Degradation of biological functions or habitat;

(c) Accelerated streambank or streambed erosion or siltation; and

(d) Increased threat of flood damage to public health, life or property.

(3) <u>Grading permit not to be issued where alternatives requested</u>. No grading permit shall be issued where an alternative has been requested until the alternative is approved. If no alternative is approved, the plans must be resubmitted with a stormwater management plan that meets the primary requirement for onsite stormwater management. (Ord. #7-98, Feb. 1998, § 4, as replaced by 1-2016, March 2016)

14-505. <u>Stormwater system design: construction and permanent</u> <u>stormwater management.</u> (1) <u>MS4 stormwater design or BMP manuals</u>.

(a) Adoption. The city adopts as its MS4 stormwater design and best management practices (BMP) manuals for stormwater management, construction and permanent, the following publications, which are incorporated by reference in this ordinance as if fully set out herein:

(i) TDEC <u>Erosion Prevention and Sediment Control</u> <u>Handbook</u>; most current edition.

(ii) TDEC <u>Manual for Permanent Stormwater</u> <u>Management and Design Guidance</u> manual; most current edition.

(iii) This manual includes a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each stormwater practice. These include city approved BMPs for permanent stormwater management including green infrastructure BMPs.

(b) The city manual(s) may be updated and expanded from time to time, at the discretion of the governing body of the city, upon the recommendation of the city manager or the city manager's designee, based on improvements in engineering, science, monitoring and local maintenance experience, or changes in federal or state law or regulation.

(c) Stormwater facilities that are designed, constructed and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(2) <u>Submittal of a copy of the NOC, SWPPP and notice of termination</u> to the city manager or the city manager's designee. Permittees who discharge stormwater through an NPDES-permitted municipal separate storm sewer system (MS4) who are not exempted in section 1.4.5 (Permit Coverage through Qualifying Local Program) of the Construction General Permit (CGP) must provide proof of coverage under the Construction General Permit (CGP); submit a copy of the Notice of Coverage (NOC); submit a copy of the Stormwater Pollution Prevention Plan (SWPPP); and at project completion, a copy of the signed notice of termination to the city manager or the city manager's designee. Permitting status of all permittees covered (or previously covered) under this general permit as well as the most current list of all MS4 permits is available at the TDEC's data viewer web site. Copies of additional applicable local, state or federal permits (i.e.: ARAP, etc.) must also be provided upon request. If requested, these permits must be provided before the issuance of any land disturbance permit or the equivalent.

(3) <u>Stormwater Pollution Prevention Plan (SWPPP) for construction</u> <u>stormwater management</u>. The applicant must prepare a stormwater pollution prevention plan for all construction activities that complies with subsection (4) below. The purpose of this plan is to identify construction/contractor activities that could cause pollutants in the stormwater, and to describe measures or practices to control these pollutants during project construction.

(4) <u>Stormwater Pollution Prevention Plan (SWPPP) requirements</u>. The erosion prevention and sediment control plan component of the SWPPP shall accurately describe the potential for soil erosion and sedimentation problems resulting from land disturbing activity and shall explain and illustrate the measures that are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and potential for off-site damage. If necessary, the plan shall be phased so that changes to the site during construction that alter drainage patterns or characteristics will be addressed by an appropriate phase of the plan. The plan shall be sealed by a registered professional engineer or landscape architect licensed in the State of Tennessee. The plan shall also conform to the requirements found in the most current TDEC <u>Erosion</u> <u>Prevention and Sediment Control Handbook</u>, and shall include at least the following:

(a) Project description - Briefly describe the intended project and proposed land disturbing activity including number of units and structures to be constructed and infrastructure required.

(b) A topographic map with contour intervals of five feet (5') or less showing present conditions and proposed contours resulting from land disturbing activity.

(c) The plan shall be at a minimal scale of one inch equals one-hundred feet (1'' = 100').

(d) All existing drainage ways, including intermittent and wet-weather. Include any designated floodways or flood plains.

(e) A general description of existing land cover. Individual trees and shrubs do not need to be identified.

(f) Stands of existing trees as they are to be preserved upon project completion, specifying their general location on the property.

Differentiation shall be made between existing trees to be preserved, trees to be removed and proposed planted trees. Tree protection measures must be identified, and the diameter of the area involved must also be identified on the plan and shown to scale. Information shall be supplied concerning the proposed destruction of exceptional and historic trees in setbacks and buffer strips, where they exist. Complete landscape plans may be submitted separately. The plan must include the sequence of implementation for tree protection measures.

(g) Approximate limits of proposed clearing, grading and filling.

(h) Approximate flows of existing stormwater leaving any portion of the site.

(i) A general description of existing soil types and characteristics and any anticipated soil erosion and sedimentation problems resulting from existing characteristics.

(j) Location, size and layout of proposed stormwater and sedimentation control improvements.

(k) Existing and proposed drainage network including land depressions and sinkholes.

(l) Proposed drain tile or waterway sizes. All swales, roads, etc., shall be designed to prevent flood damage to nearby buildings and other structures by being overtopped during a 24-hour duration storm of a 100-year frequency or to structurally carry the equivalent storm event.

(m) Approximate flows leaving site after construction and incorporating water run-off mitigation measures. The evaluation must include projected effects on property adjoining the site and on existing drainage facilities and systems. The plan must address the adequacy of outfalls from the development: when water is concentrated, what is the capacity of waterways, if any, accepting stormwater offsite; and what measures, including infiltration, sheeting into buffers, etc., are going to be used to prevent the scouring of waterways and drainage areas offsite, etc.

(n) The projected sequence of work represented by the grading, drainage and sedimentation and erosion control plans as related to other major items of construction, beginning with the initiation of excavation and including the construction of any sediment basins or retention/detention facilities or any other structural BMPs.

(o) Specific remediation measures to prevent erosion and sedimentation run-off. Plans shall include detailed drawings of all control measures used; stabilization measures including vegetation and non-vegetation measures, both temporary and permanent, will be detailed. Detailed construction notes and a maintenance schedule shall be included for all control measures in the plan.

(p) Specific details for:

(i) The construction of stabilized construction entrance/exits, concrete washouts, and sediment basins for controlling erosion; road access points;

(ii) Eliminating or keeping soil, sediment, and debris on streets and public ways at a level acceptable to the city. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day to the satisfaction of the city. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

(q) Proposed structures: location and identification of any proposed additional buildings, structures or development on the site.

(r) A description of onsite measures to be taken to recharge surface water into the ground water system through runoff reduction practices.

(s) Specific details for construction waste management: Construction site operators shall control waste such as discarded building materials, concrete truck washout, petroleum products and petroleum related products, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality. When the material is erodible, such as soil, the site must be treated as a construction site.

(t) The plan shall include detailed drawings of all structural and non-structural controls and stabilization measures which shall be designed to minimize erosion and maximize sediment removal resulting in storm discharge associated with the 2-year, 24-hour design storm event as a minimum, from total rainfall in the designed period. These specific details for constructing stabilized construction entrance/exits, concrete washouts, sediment basins for controlling erosion, and road access points should be designed to eliminate or keep soils, sediment, and/or debris to a minimum.

(u) When land disturbance activities are proposed along 303(d) listed streams impaired for siltation or a known high quality waterway, the erosion and sediment control plan shall be designed at a minimum to control the discharge of a 5-year 24-hour storm event along with other additional minimum standards outlined in the current Tennessee construction general permit.

(5) <u>Development near karst features</u>. Development that has or is near karst features shall include in the land disturbance permit plan or comply with the following :

(a) Pre-development natural drainage courses shall be maintained as much as feasible.

(b) No structures shall be built with the contour line within the post-development contour line calculated for each sinkhole present on the property for a 24-hour rain event duration storm of the 100-year frequency as if the sinkhole was completely filled.

(c) Removal of overburden in areas with karst features shall be minimized.

(d) Existing healthy mature trees whose drip line canopy covers a karst feature should be protected during grading whenever possible. Removal of trees should be replaced in kind by trees in the same locale and maintained as required to ensure healthy growth.

(e) Changes to terrain, including the remediation of a sinkhole shall not move this 100-year contour line onto adjacent property nor increase stormwater runoff onto adjacent properties without written permission from the relevant adjacent property owner(s).

(f) All exposed karst features exposed by cutting of overburden must be examined by a qualified licensed professional for appropriate mitigation procedures and the erosion and control and stormwater management plan shall be amended accordingly.

(6) <u>Development within city floodway zoning districts</u>. Land may be filled within the 100-year flood boundary limits provided such fill extends twenty-five feet (25') beyond all limits of any structures erected. If such fill areas occurs, then the 100-year flood elevation contour shall be established on finished contours. No fill shall be placed in established buffer area as define in by this ordinance.

(7) <u>General design performance criteria for permanent stormwater</u> <u>management</u>. The following performance criteria shall be addressed for permanent stormwater management at all development sites:

(a) Site design standards for all new and redevelopment require, in combination or alone, management measures that are designed, built and maintained to infiltrate, evapotranspire, harvest and/or use, at a minimum, the first inch of every rainfall event preceded by seventy-two (72) hours of no measurable precipitation. This first inch of rainfall must be one-hundred percent (100%) managed with no discharge to surface waters.

(b) Limitations to the application of runoff reduction requirements include, but are not limited to:

(i) Where a potential for introducing pollutants into the groundwater exists, unless pretreatment is provided;

(ii) Where pre-existing soil contamination is present in areas subject to contact with infiltrated runoff;

(iii) Presence of sinkholes or other karst features.

(c) Pre-development infiltrative capacity of soils at the site must be taken into account in selection of runoff reduction management measures.

(d) Incentive standards for re-developed sites: a ten percent (10%) reduction in the volume of rainfall to be managed for any of the following types of development. Such credits are additive such that a

maximum reduction of fifty percent (50%) of the standard in the paragraph above is possible for a project that meets all five (5) criteria:

- (i) Redevelopment;
- (ii) Brownfield redevelopment;
- (iii) High density (>7 units per acre);

(iv) Vertical density, (Floor to Area Ratio (FAR) of 2 or >18 units per acre); and

(v) Mixed use and transit oriented development (within one half (1/2) mile of transit).

(e) For projects that cannot meet one-hundred percent (100%) of the runoff reduction requirement unless subject to the incentive standards, the remainder of the stipulated amount of rainfall must be treated prior to discharge with a technology documented to remove eighty percent (80%) Total Suspended Solids (TSS) unless an alternative provided under this ordinance is approved. The treatment technology must be designed , installed and maintained to continue to meet this performance standard.

For projects that cannot meet one-hundred percent (100%) (f) of the runoff reduction requirements, the city manager or the city manager's designee may allow runoff reduction measures to be implemented at another location within the same USGS twelve (12) digit Hydrologic Unit Code (HUC) as the original project. Off-site mitigation must be a minimum of one and one half (1.5) times the amount of water not managed on site. The off-site mitigation location (or alternative location outside the twelve (12) digit HUC) and runoff reduction measures must be approved by the city manager or the city manager's designee. The city manager or the city manager's designee shall identify priority areas within the watershed in which mitigation projects can be completed. The city manager or the city manager's designee must create an inventory of appropriate mitigation projects, and develop appropriate institutional standards and management systems to value, evaluate and track transactions. Mitigation can be used for retrofit or redevelopment projects, but should be avoided in areas of new development.

(g) To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the MS4 BMP manual.

(h) Stormwater discharges to critical areas with sensitive resources (i.e., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.

(i) Stormwater discharges from hot spots may require the application of specific structural BMPs and pollution prevention

practices. In addition, stormwater from a hot spot land use may not be infiltrated.

(j) Prior to or during the site design process, applicants for land disturbance permits shall consult with the city manager or the city manager's designee to determine if they are subject to additional stormwater design requirements.

(k) The calculations for determining peak flows shall be used for sizing all stormwater facilities.

(8) <u>Minimum volume control requirements</u>. In accordance with 14-501(1)(c)(iii) the city manager or the city manager's designee may establish standards to regulate the quantity of stormwater discharged, therefore:

(a) Stormwater designs shall meet the multi-stage storm frequency storage requirements to control the peak flow rates of stormwater discharge associated with the 1-year, 2-year, 5-year, 10-year, and 25-year type II 24-hour design storm frequency in accordance with rainfall standards used for most construction projects in the United States (US) as established by the US Department of Agriculture Natural Resources Conservation Service (NRCS). Post construction stormwater generated runoff must be reduced to pre-construction levels. These practices should seek to utilize pervious areas for storm water treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots , and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

(b) Whenever detention or retention ponds are employed as part of a stormwater management system, then such ponds and related stormwater management equipment and facilities shall be maintained in perpetuity as requires by this ordinance.

(c) If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements , the city manager or the city manager's designee may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(d) All stormwater design assumptions, calculation and analysis results shall be summarized in an executive summary attached to the site plan submission.

(9) <u>Permanent stormwater management plan requirements</u>. The stormwater management plan shall include sufficient information to allow the city manager or the city manager's designee to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. To accomplish this goal the stormwater management plan shall include the following: (a) Topographic base map: Topographic base map of the site which extends a minimum of one-hundred feet (100') beyond the limits of the proposed development and indicates:

(i) Existing surface water drainage including streams, ponds, culverts, ditches, sink holes, wetlands; and the type, size, elevation, etc., of nearest upstream and downstream drainage structures;

(ii) Current land use including all existing structures, locations of utilities, roads, and easements;

(iii) All other existing significant natural and artificial features; and

(iv) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses ; drainage patterns; locations of utilities, roads and easements; the limits of clearing and grading.

(b) Proposed structural and non-structural BMPs;

(c) A written description of the site plan and justification of proposed changes in natural conditions may also be required;

(d) Calculations: Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this ordinance. These calculations must show that the proposed stormwater management measures are capable of controlling runoff from the site in compliance with this chapter and the guidelines of this manual. Such calculations shall include:

(i) A description of the design storm frequency, duration, and intensity where applicable;

(ii) Time of concentration;

(iii) Soil curve numbers or runoff coefficients including assumed soil moisture conditions;

(iv) Peak runoff rates and total runoff volumes for each watershed area;

(v) Infiltration rates, where applicable;

(vi) Culvert, stormwater sewer, ditch and/or other stormwater conveyance capacities;

(vii) Flow velocities;

(viii) Data on the increase in rate and volume of runoff for the design storms; and

(ix) Documentation of sources for all computation methods and field test results.

(e) Soils information: If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles and soil survey reports. The number and location of required soil borings or soil pits shall be

determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.

(10) <u>Maintenance and repair plan</u>. The design and planning of all permanent stormwater management facilities shall include detailed maintenance and repair procedures to ensure their continued performance. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

Buffers and buffer zones. "Buffer zone" means a setback from the (11)top of water body's bank of undisturbed vegetation, including trees, shrubs and herbaceous vegetation; enhanced or restored vegetation; or the re-establishment of native vegetation bordering streams, ponds, wetlands, springs, reservoirs or lakes, which exists or is established to protect those water bodies. The goal of the water quality buffer is to preserve undisturbed vegetation that is native to the streamside habitat in the area of the project. Vegetated, preferably native, water quality buffers protect water bodies by providing structural integrity and infiltration. canopy cover, \mathbf{as} well as stormwater filtration and evapotranspiration.

(12)Buffer zone requirements. (a) "Construction" applies to all streams adjacent to construction sites, with an exception for streams designated as impaired or exceptional Tennessee waters, as designated by the Tennessee Department of Environment and Conservation. A thirty foot (30) natural riparian buffer zone adjacent to all streams at the construction site shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state located within or immediately adjacent to the boundaries of the project, as identified using methodology from Standard Operating Procedures for Hydrologic Determinations (see rules to implement a certification program for qualified hydrologic professionals, TN Rules chapter 0400-40-17). Buffer zones are not primary sediment control measures and should not be relied on as such. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be preserved between the top of stream bank and the disturbed construction area. The thirty feet (30') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than fifteen feet (15') at any measured location.

(b) Buffer zone requirements for discharges into impaired or exceptional waters: A sixty foot (60') natural riparian buffer zone adjacent to the receiving stream designated as impaired or exceptional waters

shall be preserved, to the maximum extent practicable, during construction activities at the site. The water quality buffer zone is required to protect waters of the state (e.g. perennial and intermittent streams, rivers, lakes, wetlands) located within or immediately adjacent to the boundaries of the project, as identified on a 7.5-minute USGS quadrangle map, or as determined by the director. Buffer zones are not sediment control measures and should not be relied upon as primary sediment control measures. Rehabilitation and enhancement of a natural buffer zone is allowed, if necessary, for improvement of its effectiveness of protection of the waters of the state. The buffer zone requirement only applies to new construction sites. The riparian buffer zone should be established between the top of stream bank and the disturbed construction area. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30') at any measured location.

"Permanent" new development (c)and significant redevelopment sites are required to preserve water quality buffers along waters within the city. Buffers shall be clearly marked on site development plans, grading permit applications, and/or concept plans. Buffer width depends on the size of a drainage area. Streams or other waters with drainage areas less than 1 (one) square mile will require buffer widths of thirty feet (30') minimum. Streams or other waters with drainage areas greater than one (1) square mile will require buffer widths of sixty feet (60') minimum. The sixty feet (60') criterion for the width of the buffer zone can be established on an average width basis at a project, as long as the minimum width of the buffer zone is more than thirty feet (30) at any measured location. The city manager or the city manager's designee shall develop and apply criteria for determining the circumstances under which these averages will be available. A determination that standards cannot be met may not be based solely on the difficulty or cost associated with implementation. Every attempt should be made for development and redevelopment activities not to take place within the buffer zone. If water quality buffer widths as defined above cannot be fully accomplished on-site, the city manager or the city manager's designee shall determine the circumstances under which alternative buffer widths will be available. A determination that water quality buffer widths cannot be met on site may not be based solely on the difficulty or cost of implementing measures, but must include multiple criteria, such as: type of project, existing land use and physical conditions that preclude use of these practices. (Ord. #7-98, Feb. 1998, § 5, as replaced by Ord. #1-2016, March 2016)

14-506. Permanent stormwater management: operation, maintenance, and inspection. (1) As built plans. All applicants are required to submit actual as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Tennessee. A final inspection by the city is required before any performance security or performance bond will be released. The city shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMPs have been made and accepted by the city.

(2) <u>Landscaping and stabilization requirements</u>. (a) Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be stabilized. Stabilization measures shall be initiated as soon as possible in portions of the site where construction activities have temporarily or permanently ceased. Temporary or permanent soil stabilization at the construction site (or a phase of the project) must be completed not later than fifteen (15) days after the construction activity in that portion of the site has temporarily or permanently ceased. In the following situations, temporary stabilization measures are not required:

(i) Where the initiation of stabilization measures is precluded by snow cover or frozen ground conditions or adverse soggy ground conditions, stabilization measures shall be initiated as soon as practicable; or

(ii) Where construction activity on a portion of the site is temporarily ceased, and earth disturbing activities will be resumed within fifteen (15) days.

(b) Permanent stabilization with perennial vegetation (using native herbaceous and woody plants where practicable) or other permanently stable, non-eroding surface shall replace any temporary measures as soon as practicable. Unpacked gravel containing fines (silt and clay sized particles) or crusher runs will not be considered a non-eroding surface.

(c) The following criteria shall apply to revegetation efforts:

(i) Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over ninety percent (90%) of the seeded area.

(ii) Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or

(iii) Any area of revegetation must exhibit survival of a minimum of seventy-five percent (75%) of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy-five percent (75%) survival for one (1) year is achieved.

(iv) In addition to the above requirements, a landscaping plan must be submitted with the final design describing the vegetative stabilization and management techniques to be used at a site after construction is completed. This plan will explain not only how the site will be stabilized after construction, but who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(3) <u>Inspection of stormwater management facilities</u>. Periodic inspections of facilities shall be performed, documented, and reported in accordance with this chapter, as detailed in § 14-506.

(4) <u>Records of installation and maintenance activities</u>. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least three (3) years. These records shall be made available to the city during inspection of the facility and at other reasonable times upon request.

(5) <u>Failure to meet or maintain design or maintenance standards</u>. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this chapter, the city, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the city may take necessary corrective action. The cost of any action by the city under this section shall be charged to the responsible party. (1969 Code, § 9-410, as replaced by Ord. #1-2016, March 2016)

14-507. Existing locations and ongoing developments. (1) On-site stormwater management facilities maintenance agreement. (a) Where the stormwater facility is located on property that is subject to a development agreement, and the development agreement provides for a permanent

stormwater maintenance agreement that runs with the land, the owners of property must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owners and all subsequent property owners and their lessees and assigns, including but not limited to, homeowner associations or other groups or entities.

(b) The maintenance agreement shall:

(i) Assign responsibility for the maintenance and repair of the stormwater facility to the owners of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

(ii) Provide for a periodic inspection by the property owners in accordance with the requirements of below for the purpose of documenting maintenance and repair needs and to ensure compliance with the requirements of this ordinance. The property owners will arrange for this inspection to be conducted by a registered professional engineer licensed to practice in the State of Tennessee, who will submit a signed written report of the inspection to the city manager or the city manager's designee. It shall also grant permission to the city to enter the property at reasonable times and to inspect the stormwater facility to ensure that it is being properly maintained.

(iii) Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, cutting and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other stormwater facilities. It shall also provide that the property owners shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the MS4 BMP manual.

(iv) Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the city manager or the city manager's designee.

(v) Provide that if the property is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the city's cost of performing the maintenance shall be a lien against the property.

(2) <u>Existing problem locations - no maintenance agreement</u>. (a) The city manager or the city manager's designee shall, in writing, notify the owners of existing locations and developments of specific drainage, erosion or sediment problems affecting or caused by such locations and

developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit.

(b) Inspection of existing facilities. The city may, to the extent authorized by state and federal law, enter and inspect private property for the purpose of determining if there are illicit non-stormwater discharges, and to establish inspection programs to verify that all stormwater management facilities are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to:

(i) Routine inspections;

(ii) Random inspections;

(iii) Inspections based upon complaints or other notice of possible violations;

(iv) Inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants;

(v) Inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the city's NPDES stormwater permit; and

(vi) Joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to:

(A) Reviewing maintenance and repair records;

(B) Ssampling discharges, surface water, groundwater, and material or water in drainage control facilities; and

(C) Evaluating the condition of drainage control facilities and other BMPs.

(3) <u>Owner/operator inspections - generally</u>. The owners and/or the operators of stormwater management practices shall:

(a) Perform routine inspections to ensure that the BMPs are properly functioning. These inspections shall be conducted on an annual basis, at a minimum. These inspections shall be conducted by a person familiar with control measures implemented at a site. Owners or operators shall maintain documentation of these inspections. The city manager or the city manager's designee may require submittal of this documentation.

(b) Perform comprehensive inspection of all stormwater management facilities and practices. These inspections shall be conducted once every five (5) years, at a minimum. Such inspections must be conducted by either a professional engineer or landscape architect, licensed in the State of Tennessee. Complete inspection reports for these five (5) year inspections shall include:

(i) Facility type;

(ii) Inspection date;

(iii) Latitude and longitude, and nearest street address;

(iv) BMP owner information (e.g. name, address, phone number, fax , and email);

(v) A description of BMP condition including: vegetation and soils; inlet and outlet channels and structures; embankments, slopes, and safety benches; spillways, weirs, and other control structures; and any sediment and debris accumulation;

(vi) Photographic documentation of BMPs; and

(vii) Specific maintenance items or violations that need to be corrected by the BMP owner along with deadlines and re-inspection dates.

(c) Owners or operators shall maintain documentation of these inspections. The city manager or the city manager's designee may require submittal of this documentation.

(4) <u>Requirements for all existing locations and ongoing developments</u>. The following requirements shall apply to all locations and development at which land disturbing activities have occurred previous to the enactment of this ordinance:

(a) Denuded areas must be vegetated or covered under the standards and guidelines specified in § 14-506 and on a schedule acceptable to the city manager or the city manager's designee.

(b) Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed .

(c) Drainage ways shall be properly covered in vegetation or secured with rip-rap, channel lining, etc., to prevent erosion.

(d) Trash, junk, rubbish, etc., shall be cleared from drainage ways.

(e) Stormwater runoff shall, at the discretion of the city manager or the city manager's designee, be controlled to the maximum extent practicable to prevent its pollution. Such control measures may include, but are not limited to, the following:

(i) Ponds

- (A) Detention pond
- (B) Extended detention pond
- (C) Wet pond
- (D) Alternative storage measures
- (ii) Constructed wetlands
- (iii) Infiltration systems
 - (A) Infiltration/percolation trench

- (B) Infiltration basin
- (C) Drainage (recharge) well
- (D) Porous pavement
- (iv) Filtering systems
 - (A) Catch basin inserts/media filter
 - (B) Sand filter
 - (C) Filter/absorption bed
 - (D) Filter and buffer strips
- (v) Open channel
 - (A) Swale

(5) <u>Corrections of problems subject to appeal</u>. Corrective measures imposed by the city manager or the city manager's designee under this section are subject to appeal under § 14-511 of this chapter. (1969 Code, § 9-411, as replaced by Ord. #1-2016, March 2016)

14-508. <u>Illicit discharges</u>. (1) <u>Scope</u>. This section shall apply to all water generated on developed or undeveloped land entering the city's separate storm sewer system.

(2) <u>Prohibition of illicit discharges</u>. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater or any discharge that flows from stormwater facility that is not inspected in accordance with § 14-507 shall be an illicit discharge. Non-stormwater discharges shall include, but shall not be limited to, sanitary wastewater, car wash wastewater, radiator flushing disposal, spills from roadway accidents, carpet cleaning wastewater, effluent from septic tanks, improper oil disposal, laundry wastewater/gray water, improper disposal of auto and household toxics. The commencement, conduct or continuance of any non-stormwater discharge to the municipal separate storm sewer system is prohibited except as described as follows:

(a) Uncontaminated discharges from the following sources:

- (i) Water line flushing or other potable water sources;
- (ii) Landscape irrigation or lawn watering with potable water;
 - (iii) Diverted stream flows;
 - (iv) Rising ground water;
 - (v) Groundwater infiltration to storm drains;
 - (vi) Pumped groundwater;
 - (vii) Foundation or footing drains;
 - (viii) Crawl space pumps;
 - (ix) Air conditioning condensation;
 - (x) Springs;
 - (xi) Non-commercial washing of vehicles;
 - (xii) Natural riparian habitat or wetland flows;

(xiii) Swimming pools (if dechlorinated - typically less than one (1) PPM chlorine);

(xiv) Firefighting activities; or

(xv) Any other uncontaminated water source.

(b) Discharges specified in writing by the city as being necessary to protect public health and safety.

(c) Dye testing is an allowable discharge if the city has so specified in writing.

(d) Discharges authorized by the Construction General Permit (CGP), which comply with section 3.5.9 of the same:

(I Dewatering of work areas of collected stormwater and ground water (filtering or chemical treatment may be necessary prior to discharge);

(ii) Waters used to wash vehicles (of dust and soil, not process materials such as oils, asphalt or concrete) where detergents are not used and detention and/or filtering is provided before the water leaves site;

(iii) Water used to control dust in accordance with CGP section 3.5.5;

(iv) Potable water sources including waterline flushings from which chlorine has been removed to the maximum extent practicable;

(v) Routine external building washdown that does not use detergents or other chemicals;

(vi) Uncontaminated groundwater or spring water; and

(vii) Foundation or footing drains where flows are not contaminated with pollutants (process materials such as solvents, heavy metals, etc.).

(3) <u>Prohibition of illicit connections</u>. The construction, use, maintenance or continued existence of illicit connections to the municipal separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(4) <u>Reduction of stormwater pollutants by the use of best management</u> <u>practices</u>. Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. Discharges from existing BMPs that have not been maintained and/or inspected in accordance with this ordinance shall be regarded as illicit. Change 5, June 11, 2018

Notification of spills. Notwithstanding other requirements of law, (5)as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, the person shall notify the city in person or by telephone, fax, or email, no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the city within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(6) <u>No illegal dumping allowed</u>. No person shall dump or otherwise deposit outside an authorized landfill, convenience center or other authorized garbage or trash collection point, any trash or garbage of any kind or description on any private or public property, occupied or unoccupied, inside the city. (1969 Code, § 9-412, as replaced by Ord. #1-2016, March 2016)

14-509. <u>Enforcement.</u> (1) <u>Enforcement authority</u>. The city shall have the authority to issue notices of violation and citations, and to impose the civil penalties provided in this section. Measures authorized include:

(a) Verbal warnings - At a minimum, verbal warnings must specify the nature of the violation and required corrective action.

(b) Written notices - Written notices must stipulate the nature of the violation and the required corrective action, with deadlines for taking such action.

(c) Citations with administrative penalties - The city manager or the city manager's designee has the authority to assess monetary penalties, which may include civil and administrative penalties.

(d) Stop work orders - Stop work orders that require construction activities to be halted, except for those activities directed at cleaning up, abating discharge, and installing appropriate control measures.

(e) Withholding of plan approvals or other authorizations -where a facility is in noncompliance, the city manager or the city manager's designee's own approval process affecting the facility's ability to discharge to the MS4 can be used to abate the violation.

(f) Additional measures - The city manager or the city manager's designee may also use other escalated measures provided

under local legal authorities. The city manager or the city manager's designee may perform work necessary to improve erosion control measures and collect the funds from the responsible party in an appropriate manner, such as collecting against the project's bond or directly billing the responsible party to pay for work and materials.

(2) <u>Notification of violation</u>. (a) Verbal warning - Verbal warning may be given at the discretion of the inspector when it appears the condition can be corrected by the violator within a reasonable time, which time shall be approved by the inspector.

(b) Written notice - Whenever the city finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the city manager or the city manager's designee may serve upon such person written notice of the violation. Within ten (10) days of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the city manager or the city manager's designee. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(c) Consent orders - The city is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (d) and (e) below.

(d) Show cause hearing - The city may order any person who violates this chapter or permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the violator 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.

(e) Compliance order - When the city finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures or devices be installed and/or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(f) Cease and desist and stop work orders - When the city finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the city manager or the city manager's designee may issue a stop work order or an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith; or

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation; including halting operations except for terminating the discharge and installing appropriate control measures.

(g) Suspension, revocation or modification of permit - The city may suspend, revoke or modify the permit authorizing the land development project or any other project of the applicant or other responsible person within the city. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the city manager or the city manager's designee may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(h) Conflicting standards - Whenever there is a conflict between any standard contained in this chapter and in the BMP manual adopted by the city under this ordinance, the strictest standard shall prevail. (1969 Code, § 9-413, as replaced by Ord. #1-2016, March 2016)

14-510. <u>Penalties</u>. (1) <u>Violations</u>. Any person who shall commit any act declared unlawful under this chapter, who violates any provision of this chapter, who violates the provisions of any permit issued pursuant to this chapter, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action by the city manager or the city manager's designee, shall be guilty of a civil offense.

(2) <u>Penalties</u>. Under the authority provided in <u>Tennessee Code</u> <u>Annotated</u>, § 68-221-1106, the city declares that any person violating the provisions of this chapter may be assessed a civil penalty by the city of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

(3) <u>Measuring civil penalties</u>. Under the authority provided in <u>Tennessee Code Annotated</u>, § 68-221-1106, the following factors may be considered by the city in assessing a civil penalty:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the city;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(4) <u>Recovery of damages and costs</u>. In addition to the civil penalty in subsection (2) above, the city may recover:

(a) All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation; and

(b) The costs of the city's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.

(5) <u>Referral to TDEC</u>. Where the city has used progressive enforcement to achieve compliance with this ordinance, and in the judgment of the city has not been successful, the city may refer the violation to TDEC. For the purposes of this provision, "progressive enforcement" shall mean two (2) follow-up inspections and two (2) warning letters. In addition, enforcement referrals to TDEC must include, at a minimum, the following information:

(a) Construction project or industrial facility location;

(b) Name of owner or operator;

(c) Estimated construction project or size or type of industrial activity (including the Standard Industrial Classification (SIC) code, if known); and

(d) Records of communications with the owner or operator regarding the violation, including at least two (2) follow-up inspections, two (2) warning letters or notices of violation, and any response from the owner or operator.

(6) <u>Other remedies</u>. The city may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(7) <u>Remedies cumulative</u>. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted. (Ord. #7-98, Feb. 1998, § 6, as replaced by Ord. #1-2016, March 2016)

14-511. <u>Appeals from decisions of city manager or the city</u> <u>manager's designee.</u> (1) <u>When may appeal</u>. Whenever the city manager or the city manager's designee shall reject or refuse to approve the mode or manner of construction proposed to be followed, or materials to be used, or when it is claimed that the provisions of this ordinance do not apply, or that an equally good or more desirable form of construction can be employed in any specific case, or when it is claimed that the true intent and meaning of this ordinance or any of the regulations thereunder have been misconstrued or wrongly interpreted, the owner of such property or his duly authorize agent, may appeal from the decision of the city manager or the city manager's designee to the board of zoning appeals. Notice of appeal shall be in writing and filed within sixty (60) days after the decision is rendered by the city manager or the city manager's designee. A fee of two hundred dollars (\$200.00) shall accompany such notice of appeal which shall be returned to the appellant if successful.

(2) <u>Time for appeal may be limited</u>. In case of a condition which, in the opinion of the city manager or the city manager's designee, is unsafe or dangerous, the city manager or the city manager's designee may, in his order, limit the time for such appeal to a shorter period.

(3) <u>Appeal form</u>. Appeals under this section shall be on forms provided by the city manager or the city manager's designee.

(4) <u>Time frame</u>. The board of zoning appeals shall meet and conduct a hearing on any appeal within thirty (30) days unless the appellant requests or consents to additional time. (Ord. #7-98, Feb. 1998, § 7, as replaced by Ord. #1-2016, March 2016)

14-512. <u>Appeal of damage assessment or civil penalty</u>. Pursuant to <u>Tennessee Code Annotated</u>, § 68-221-1106(d), any person incurring a damage assessment or a civil penalty as provided by this chapter (alleged violator) may appeal the damage assessment or civil penalty to the city's board of zoning appeals.

(1) <u>Appeals to be in writing</u>. The appeal shall be in writing and filed with the community development department within thirty (30) days after the civil penalty and/or damage assessment is served in any manner authorized by law.

(2) <u>Appealing decisions of board of zoning appeals</u>. The alleged violator may appeal a decision of the board of zoning appeals pursuant to the provisions of <u>Tennessee Code Annotated</u>, title 27, chapter 8.

(3) <u>Failure to appeal to board of zoning appeals</u>. If the alleged violator does not file an appeal within the time frame set forth above in subsection (1), the alleged violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. The city may then apply to the appropriate chancery court for a judgment and seek execution of such judgment. The court shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment. (1969 Code, § 9-440, as replaced by Ord. #1-2016, March 2016)

14-513.--14-515. <u>Deleted</u>. (Ord. #7-98, Feb. 1998, § 8, as deleted by Ord. #1-2016, March 2016)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

- 1. IN GENERAL.
- 2. VEHICLE EQUIPMENT.
- 3. OPERATION OF VEHICLES GENERALLY.
- 4. TRAFFIC CONTROL DEVICES.
- 5. SPEED REGULATIONS.
- 6. STOPPING, STANDING AND PARKING.
- 7. BICYCLES.
- 8. PEDESTRIANS.

CHAPTER 1

IN GENERAL

SECTION

- 15-101. Definitions.
- 15-102. Obedience to traffic officers.
- 15-103. Operation of motor vehicles off public streets; muffler required.
- 15-104. Application of provisions of chapter relating to operation of vehicles.
- 15-105. Application of title to persons riding animals or driving animal-drawn vehicles.
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- 15-108. Exemptions granted drivers of authorized emergency vehicles.
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¹Municipal code reference

Obstructing streets, etc.: title 16.

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- 15-129. Registration certificate.
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- 15-131. License to be carried and exhibited upon demand.
- 15-132. Notification of change of address and/or name.

15-101. <u>Definitions</u>. The following words and phrases, when used in this title, have the meanings respectively ascribed to them in this section:

(1) "Arterial street." Any U. S. or state numbered route, controlledaccess highway, or other major radial or circumferential street or highway designated by city council as a part of a major arterial system of streets and highways.

(2) "Authorized emergency vehicle." Vehicles of the fire department, fire patrol, police vehicles and such ambulances and emergency vehicles as are designated or authorized by the state commissioner of safety or the chief of police of the city.

(3) "Bicycle." Every device propelled by human power upon which any person may ride, having two (2) tandem wheels either of which is more than twenty (20) inches in diameter.

(4) "Bus." Every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

(5) "Business district." The territory contiguous to and including a street when, within any six hundred (600) feet along such street, there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings, which occupy at least three hundred (300) feet collectively on both sides of the street.

(6) "Chauffeur." Every person who is employed by another for the principal purpose of driving a motor vehicle and every person who drives a

school bus transporting schoolchildren or any motor vehicle when in use for the transportation of persons or property for compensation.

(7) "Citation." Means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(8) "Crosswalk." That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the street measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway. Such term shall also include any portion of the roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(9) "Driver." Every person who drives or is in actual physical control of a vehicle.

(10) "Disabled driver." The term disabled driver shall mean any person who is qualified under the provisions of the <u>Tennessee Code Annotated</u>, § 59-2201 <u>et seq</u>., and § 59-861 as amended and is issued registration, placard, or license plates bearing the stylized wheelchair symbol or the disabled veteran's symbol by the state department of revenue.

(11) "Intersection." The areas embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines, of the roadways of two (2) streets which join one another at, or approximately at, right angles, or the areas within which vehicles traveling upon different streets joining at any other angle may come in conflict. Where a street includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection. In the event such intersecting street also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such street shall be regarded as a separate intersection.

(12) "Junked vehicle." Any motorized or non-motorized vehicle, including but not limited to campers, trailers and semi-trailers, the condition of which is one or more of the following: wrecked, abandoned, discarded, in a state of disrepair, lacking vital component parts or poses a safety hazard.

(13) "Laned street." A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

(14) "Loading zone." A space on the edge of a street designated by sign for the purpose of loading or unloading passengers or materials.

(15) "Metal tire." Every tire the surface of which in contact with the street is wholly or partly of metal or other hard, nonresilient material.

(16) "Motorized vehicle." Every motor vehicle which is self-propelled, including but not limited to automobiles, trucks, tractors, forklift trucks, motorcycles, road building equipment, street cleaning equipment, and any other vehicle capable of moving under its own power, notwithstanding that the vehicle may be exempt from licensing under the motor vehicles laws of Tennessee. Change 5, June 11, 2018

(17) "Motorcycle." Every motor vehicle having a seat or saddle for the use of a rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

(18) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, and every bicycle with a motor attached.

(19) "Nonmotorized vehicle." Any vehicle or object not capable of selfpropulsion upon streets, including but not limited to travel trailers, boats and trailers.

(20) "Official traffic-control devices." All signs, signals, markings and devices not inconsistent with this chapter and Chapters 8 and 10 of Title 59, <u>Tennessee Code Annotated</u>, placed or erected by authority of the city council, for the purpose of regulating, warning or guiding traffic.

(21) "Operator." Every person, other than a chauffeur, who drives or is in actual physical control of a motor vehicle upon a street or who is exercising control over or steering a vehicle being towed by a motor vehicle.

(22) "Owner." The person who is the registered owner with the appropriate vehicle registration authority at the time of the incident or citation.

(23) "Park." The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

(24) "Pedestrian." Any person afoot.

(25) "Person." An individual, corporation, firm, partnership, association, organization and any other group acting as a unit.

(26) "Pneumatic tire." Every tire in which compressed air is designed to support the load."

(27) "Pole trailer." Every vehicle without motive power designed to be driven by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as poles, pipes or structural members, capable, generally, of sustaining themselves as beams between the supporting connections.

(28) "Police officer." Every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(29) "Private road or driveway." Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(30) "Railroad train." A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

(31) "Recreational vehicles." Any vehicular-type unit used primarily for recreational purposes including, but not limited to, boats, boat trailers, personal water craft carriers, personal water craft trailers, travel trailers, tent trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motor coaches, motorized homes, and non-motorized vehicles. (32) "Residential district." The territory contiguous to and including a street not comprising a business district when the property on such street, for a distance of three hundred (300) feet or more, is in the main improved with residences.

(33) "Right-of-way." The privilege of the immediate use of the roadway.

(34) "Road tractor." Every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

(35) "Roadway." That portion of a street improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a street includes two (2) or more separate roadways, the term "roadway" shall refer to any such roadway separately but not to all such roadways collectively.

(36) "Safety zone." The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(37) "School bus." Every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school or privately owned and operated for compensation for the transportation of children to or from school.

(38) "Semitrailer." Every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

(39) "Sidewalk." That portion of a street between the curblines or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

(40) "Solid tire." Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

(41) "Special mobile equipment." Every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm tractors, road construction or maintenance machinery, ditchdigging apparatus, well-boring apparatus and concrete mixers. The foregoing enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this paragraph.

(42) "Specially constructed vehicle." Every vehicle of a type required to be registered not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

(43) "State of disrepair." Exhibiting one (1) or more of the following characteristics: inoperable under its own power (if a motor vehicle), without one

(1) or more wheels or inflated tires, burned throughout, with more than one (1) broken window or in a generally unusable condition.

(44) "Stop." Complete cessation of movement.

(45) "Stop, stopping or stand." When prohibited, any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

(46) "Street." The entire width between the boundary lines of every publicly maintained way, including a road, highway, street, avenue, boulevard, parkway, alley, lane, viaduct bridge and approach thereto within the city.

(47) "Through street." Every street or portion thereof at the entrance to which vehicular traffic from intersecting streets is required by law to stop before entering or crossing the same and when stop signs are erected as provided in this chapter.

(48) "Tractor." Any self-propelled vehicle designed or used as a traveling power plant or for drawing other vehicles, but having no provision for carrying loads independently.

(49) "Traffic." Pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while using any highway for purposes of travel.

(50) "Traffic-control signal." Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

(51) "Traffic lane." That area of the roadway used for the movement of a single line of traffic.

(52) "Trailer." Every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

(53) "Truck." Every motor vehicle designed, used or maintained primarily for the transportation of property.

(54) "Truck tractor." Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load as drawn.

(55) "Utility trailers." Any wheeled structure, without motive power, designed to be towed by a motor vehicle and which is generally and commonly used to carry and transport personal effects and/or property.

(56) "Vehicle." Every device in, upon or by which any person or property is or may be transported or drawn upon a street, excepting devices moved by human power or used exclusively upon stationary rails or tracks. For the purposes of chapter 6 of this title, a "bicycle" shall be deemed a vehicle. (1969 Code, § 24-1, as amended by Ord. #11-02, June 2002, Ord. #01-2012, March 2012, and Ord. #3-2015, Jan. 2015) **15-102.** <u>**Obedience to traffic officers**</u>. No person shall wilfully fail or refuse to comply with any lawful order or direction of any police officer of the city directing, controlling or regulating traffic. (1969 Code, § 24-2)

15-103. <u>Operation of motor vehicles off public streets; muffler</u> <u>required</u>. All motor vehicles, motorcycles, and motor-driven cycles shall be operated only upon the public streets of the city except for the following:

(1) Upon the public lands of the city where permitted by authorization of the city manager; or

(2) Upon courses established for operation of such vehicles. The city manager is authorized to approve or disapprove the establishment of a proposed course and shall promulgate reasonable rules regulating the operation of vehicles on established courses to assure compliance with all ordinances of the city and to protect the health, safety and welfare of the community; or

(3) Upon property owned by the operator or upon which permission has been given by the owner of such land.

All such vehicles shall be equipped with a properly designed and working muffler, constantly in use to prevent unusual or loud noise. (1969 Code, § 24-2.1)

15-104. <u>Application of provisions of chapter relating to operation</u> <u>of vehicles</u>. The provisions of this title relating to the operation of vehicles refer exclusively to the operation of vehicles upon streets except where a different place is referred to herein, provided however that the provisions of this title relating to the operation of vehicles shall further apply to any streets or roadways included in any traffic enforcement agreement filed with the city court or provided by applicable provisions of the <u>Tennessee Code Annotated</u>. (1969 Code, § 24-3)

15-105. <u>Application of title to persons riding animals or driving</u> <u>animal-drawn vehicles</u>. Every person riding an animal or driving an animal-drawn vehicle upon a street shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle under this title, except those provisions which, by their very nature, have no application. (1969 Code, § 24-4)

15-106. <u>Application of title to drivers of government vehicles</u>. The provisions of this title applicable to drivers of vehicles shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city, town, district or any other political subdivision of the state, subject to such specific exceptions as are set forth in this title. (1969 Code, § 24-5)

15-107. <u>Application of title to persons working on street</u>.¹ Unless specifically made applicable, the provisions of this title shall not apply to persons, teams, motor vehicles and other equipment while actually engaged in work upon the surface of a street or the adjacent right-of-way, but shall apply to such persons and vehicles when traveling to and from such work. The provisions of this section shall not relieve the driver of a motor vehicle or equipment covered by this section from the duty to drive with due regard for the safety of all persons, all as provided by law. (1969 Code, § 24-6, as replaced by Ord. #21-06, Dec. 2006)</u>

15-108. Exemptions granted drivers of authorized emergency vehicles. (1) The driver of an authorized emergency vehicle, when responding to an emergency call or when in 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, but subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may:

(a) Park or stand, irrespective of the provisions of this title.

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.

(c) Exceed the speed limits so long as he or she does not endanger life or property.

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions of this section 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 such driver from the consequences of his or her reckless disregard for the safety of others. (1969 Code, \S 24-7)

15-109. <u>General regulations governing nonmotor vehicles and</u> <u>animals</u>. (1) Every driver or person having charge of any nonmotor vehicle, on any of the public roads in or of this city, on meeting and passing another vehicle, shall give one-half (½) the road by turning to the right, so as not to interfere in passing.

¹State law reference

Tennessee Code Annotated, § 55-8-107.

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(2) When nonmotor vehicles are traveling in the same direction, and the driver of the hindmost desires to pass the foremost, each driver shall give one-half $(\frac{1}{2})$ of the road, the foremost by turning to the right, and the hindmost to the left.

(3) No driver shall stop his or her nonmotor vehicle on any of the public roads, for any cause or pretense whatever, without turning so far to the right as to leave at least one-half ($\frac{1}{2}$) the road free, open, and unobstructed for other travelers and vehicles.

(4) Drivers of nonmotor vehicles on public roads shall pass each other in a quiet, orderly, and peaceable manner, and shall not make any noise intended to disturb or frighten the driver or the animals drawing nonmotor vehicles.

(5) No person shall wilfully, by noise, gesture, or by other means, on or near public roads, disturb or frighten the driver or rider or the animals ridden or drawing vehicles thereon. (1969 Code, § 24-8)

15-110. <u>Playing on streets or using toy vehicles thereon;</u> <u>skateboarding prohibited except in areas designated for such use</u>.

(1) No person shall play or use any toy vehicle on any street within the city.

(2) No person shall use a skateboard upon any street, sidewalk, right-of-way, public property, or upon any city-owned, operated or controlled parking lots or other city-owned property and facilities, unless the property or area has been designated by the city and posted as a place permitting such activity. For purposes of this section, "skateboard" shall mean a wheeled, self-propelled board of any material designed to transport a rider in a standing position, which board is not otherwise secured to the rider's feet or shoes and to which board there is not affixed any device or mechanism to turn or control the wheels.

(3) No person shall at any time use any bench, table, garbage can or other property belonging to the city as a ramp or jump for skateboarding at any location within the city.

(4) No person shall use skateboards upon any private property where such property has been posted as prohibiting such activity. (Ord. #9-98, March 1998)

15-111. <u>Clinging to vehicles</u>. No person riding upon any roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway. (1969 Code, § 24-10)

15-112. <u>Riding on motorcycles and motor-driven cycles generally</u>.¹

(1) A person operating a motorcycle or motor-driven cycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle or motordriven cycle, unless such vehicle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.

(2) A person shall ride upon a motorcycle only while sitting astride the seat, headlamp illuminated, facing forward, with one (1) leg on each side of the motorcycle.

(3) No person shall operate a motorcycle while carrying any package, bundle or other article which prevents such person from keeping both hands on the handlebars.

(4) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

(5) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two (2) abreast in a single lane.

(6) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.

(7) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.

(8) Motorcycles shall not be operated more than two (2) abreast in a single lane.

(9) Subsections (6) and (7) shall not apply to police officers in the performance of their official duties. (1969 Code, § 24-11, as amended by Ord. #21-06, Dec. 2006)

15-113. <u>Safety goggles for driver and passenger on motorcycle or</u> <u>motor-driven cycle</u>. The operator and any passenger on any motorcycle or motor-driven cycle not equipped with a windshield in accord with § 15-220 shall wear safety goggles of a type approved by the state commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes. (1969 Code, § 24-12)

15-114. <u>Crash helmets for driver and passenger on motorcycle or</u> <u>motor-driven cycle</u>. The driver of a motorcycle or motor-driven cycle and any

¹State law reference

Tennessee Code Annotated, §§ 55-8-164 and 55-8-182.

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passenger thereon shall wear a crash helmet meeting the requirements of <u>Tennessee Code Annotated</u>, §55-9-302.

This section does not apply to persons riding:

(1) Within an enclosed cab;

(2) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.), and have the capacity to maintain posted highway speed limits;

(3) Golf carts;

(4) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years of age or older; or

(5) In a funeral procession, memorial ride under police escort, or body escort detail provided that the driver travels at a speed not to exceed thirty (30) miles per hour, the driver or passenger is twenty-one (21) years of age or older, and the funeral procession, memorial ride, or body escort detail does not exceed a distance of fifty (50) miles. (1969 Code, § 24-13, as replaced by Ord. #14-2015, Sept. 2015)

15-115. Vehicles damaging or likely to damage streets. (1) No person shall operate, tow or place upon any street of the city any truck, road grader, earth mover, or any other vehicle or equipment which, either by its weight or the design and construction of its wheels or other supporting device, will materially injure such street, whether such injury is by breaking a paved surface, injuring bridges or culverts, or any other injury to such street. There shall be conclusive presumption that any freight motor vehicle operating upon the streets of the city, whose load is in excess of the weight limits provided in this chapter, shall have caused injury to the street on which it is being operated. Before any such vehicle or equipment shall be moved upon, on or over any street within the city, the driver or operator of such vehicle or equipment shall comply with the rules and regulations which shall be prescribed by the city manager and a permit shall be obtained from the city manager or his or her authorized representative to move such vehicle or equipment on, over, or upon the city streets. The city manager is hereby authorized and directed to prescribe, by reasonable regulations, the manner in which the wheels of vehicles shall be equipped in order to protect the surface or foundation of streets in the city and to issue permits for the operation of such vehicles upon the streets upon compliance with these or any other reasonable regulations prescribed by the city manager and approved by the city council for the protection of the city streets.

(2) The owner of any vehicle driven upon a city street in violation of this section shall be liable in an action for damages caused to such street, such action to be prosecuted by the city manager in the name of the city. (1969 Code, \S 24-14)

15-116. <u>Vehicle loads not to spill on streets; deposit of mud, etc.</u>, <u>from vehicle tires</u>. No person shall load, drive or move any truck or other

vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind. (1969 Code, § 24-15)

15-117. Deposit of glass, nails, etc., in street prohibited; removal.

(1) No person shall throw or deposit upon any street any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such street.

(2) Any person who drops, or permits to be dropped or thrown upon any street any destructive or injurious material shall immediately remove the same or cause it to be removed.

(3) Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle. (1969 Code, § 24-16)

15-118. <u>Parents or guardians not to authorize or knowingly</u> <u>permit violations of chapter</u>. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this chapter. (1969 Code, § 24-17)

15-119. <u>Minor traffic violations defined</u>. A "minor traffic violation," for the purposes of § 15-120, shall be defined as follows:

Any nonmoving violation, such as but not limited to a parking offense, obstruction of driver's view, stopping, standing or parking in prohibited areas, and driving with equipment deficiencies which are prohibited by this chapter. Such definition shall include unlawful horn blowing and blocking of an intersection. (1969 Code, § 24-18)

15-120. <u>Acceptance of guilty pleas and fines for minor traffic</u> <u>violations</u>. (1) The city court clerk is hereby authorized to accept pleas of guilty in the case of minor traffic violations, to accept designated fines in connection with such pleas, issue receipts therefor, and appear for such person in court for the purpose of entering pleas of guilty, all in accordance with such procedures as may be established by the judge of the city court. Such fines shall be accepted upon the entry of any plea of guilty before the court clerk. The amount of such fine to be so accepted shall be as designated by rule of court promulgated by the judge of the city court; provided that no such fine may be accepted for a sum less than the minimum fine imposed by any ordinance for any minor traffic violation. Any person arrested or given a ticket for a minor traffic violation may post the fine appropriate thereto, and notify the clerk of the city that he or she will appear for trial, in which case the matter may be entered on the docket for trial.

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(2) In the absence of the city judge and clerk of the city court and his or her deputies, the highest ranking police officer on duty at the time is hereby designated as an officer of the court authorized to accept pleas of guilty and accept fines in cases of minor traffic violations in accord with this section.

(3) There shall be no costs assessed in cases in which a plea of guilty is entered under this section. (1969 Code, § 24-19)

15-121. <u>Arrest procedure for violations of title</u>. (1) Except as provided otherwise in this title, whenever any person is arrested for a violation of any provision of this title, the arresting officer shall prepare in quadruplicate written notice to appear in the city court, containing the name and address of such person, the license number of his or her vehicle, the offense charged, and the time when such person shall appear in city court. The time specified for appearance shall be not less than five (5) days from the date of issuance of the notice to appear, unless the person arrested agrees to a shorter period. If the person arrested so demands, the appearance in court shall be the first session of court following the arrest.</u>

(2) The arrested person shall sign one copy of the notice to appear in order to secure his or her release. Signing of the notice to appear shall constitute the arrested person's promise to appear on the date specified in the notice. One copy of the notice to appear shall be delivered to the arrested person.

(3) The arresting officer may, instead of issuing a notice to appear as provided above, hold such person until an appearance bond in an amount fixed by the city judge is furnished. Pursuant to <u>Tennessee Code Annotated</u>, § 59-730, whenever any person lawfully possessed of a chauffeur's or operator's license therefor issued to him or her by the Department of Safety, State of Tennessee, is issued a citation or arrested and charged with a violation of any city ordinance regulating traffic, said person shall have the option of depositing his or her chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his or her appearance in the city court in answer to any such charge before said court.

(4) Nothing in this section shall be construed as conflicting with § 15-120. (1969 Code, § 24-20)

15-122. <u>Failure to obey traffic citation</u>. No person shall violate his or her written promise to appear given to an officer upon the issuance of a traffic citation provided for in § 15-121, regardless of the disposition of the charge for which such citation was originally issued. Any person convicted of violating this section shall be fined and may be imprisoned in like manner as for the offense of which such person was originally charged. (1969 Code, § 24-21)

15-123. <u>Compliance with traffic citation by appearance by</u> <u>counsel</u>. A written promise to appear in court given pursuant to § 15-121 may be complied with by an appearance by counsel. (1969 Code, § 24-22)

15-124. <u>Illegal cancellation of traffic citation</u>. Any person who cancels, attempts to cancel, or solicits the cancellation of any traffic citation, in any manner other than as provided in this chapter, shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00) and may be confined in the city workhouse for a period of time not to exceed ninety (90) days. (1969 Code, § 24-23)

15-125. <u>Collection of fines, costs, etc., under title</u>. The city manager is hereby authorized and directed to take all steps necessary and lawful to collect all fines, costs, penalties, and forfeitures of bonds imposed under this title. (1969 Code, § 24-24)

15-126. <u>Violations of title to be tried upon warrants or traffic</u> <u>complaints; records of violations</u>. All charges of violation of this title shall be tried upon warrants or traffic complaints duly prepared in a form required by law; which warrant or traffic complaint shall be kept on permanent file with all relevant papers and documents. (1969 Code, § 24-25)

15-127. <u>Compliance with financial responsibility law required</u>; <u>evidence of compliance</u>. This section shall apply to every vehicle subject to the registration and certification of title provisions.

(1) At the time the driver of a motor vehicle is charged with any moving violation under <u>Tennessee Code Annotated</u>, title 15, chapters 8 and 10, parts 1-5, chapter 50; any city ordinance regulating traffic; or at the time of an accident for which notice is required by state law under <u>Tennessee Code Annotated</u>, § 55-10-106, the officer shall request evidence of financial responsibility. In case of an accident for which notice is required by state law under <u>Tennessee Code Annotated</u>, § 55-10-106, the officer shall request evidence of financial responsibility from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" has the same meaning as it does in <u>Tennessee Code Annotated</u>, § 55-12-139.

(2) On or before the court date, the person so charged may submit evidence of compliance with this section at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation and it is the person's first offense, the charge of failure to provide evidence of financial responsibility shall be dismissed without costs. If the court is satisfied that compliance was in effect at the time of the violation and it is the person's second or subsequent offense, the charge of failure to provide evidence of financial responsibility may be dismissed without costs. (3) A person who did not have financial responsibility that was in effect at the time of being charged with a violation of this section shall not have that person's violation dismissed. (as added by Ord. #21-06, Dec. 2006, and amended by Ord. #25-08, Aug. 2008, and Ord. #16-09, Sept. 2009)

15-128. Display of registration plates.¹ (1) The registration plate issued for passenger motor vehicles shall be attached on the rear of the vehicle. The registration plate issued for those trucks with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a panel or pickup body style, and also those issued for all motor homes, regardless of ton rating or body style thereof, shall be attached to the rear of the vehicle. The registration plate issued for all other trucks and truck tractors shall be attached to the front of the vehicle. All dealers' plates and those registration plates issued for motorcycles, trailers or semitrailers shall be attached to the rear of the vehicle.

(2) Every registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which it is issued so to prevent the plate from swinging and at a height of not less than twelve (12) inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible and shall be maintained free from foreign materials and in a condition to be clearly legible. No tinted materials may be placed over a license plate even if the information upon such license plate is not concealed.

(3) A person charged with a violation of this section may, in lieu of appearance in court, submit a fine of ten dollars (\$10.00) for a first violation, and twenty dollars (\$20.00) on second and subsequent violations to the city court clerk. (as added by Ord. #21-06, Dec. 2006)

15-129. <u>**Registration certificate**</u>.² (1) Every certificate of registration shall at all times be carried in the vehicle to which it refers or shall be carried by the person driving, or in control of such vehicle, who shall display the same upon demand of any officer or employee of the department. The owner may, in order to ensure its safekeeping, provide a duplicate or facsimile of the certificate of registration to be kept in the vehicle for display by any person who may legally operate such vehicle under the owner's registration.

(2) The provision of this section requiring that a certificate of registration be carried in the vehicle to which it refers, or by the person driving the same, shall not apply when such certificate of registration is used for the

¹State law reference Tennessee Code Annotated, § 55-4-110.

²State law reference <u>Tennessee Code Annotated</u>, § 55-4-108. purpose of making application for renewal of registration or upon a transfer of the vehicle. (as added by Ord. #21-06, Dec. 2006)

15-130. <u>Registration required before operation</u>.¹ It is unlawful to operate any motor vehicle upon the streets and roadways unless such vehicle is properly registered in accordance with Tennessee law. (as added by Ord. #2-07, Feb. 2007)

15-131. License to be carried and exhibited upon demand.² It is unlawful for a person to operate a motor vehicle without having his or her driver's license in their immediate possession, or to fail to display such license upon the demand of any police officer, except where the licensee has previously deposited the license with the officer or court demanding bail, and has received a receipt from the officer or the court, the same is to serve as a substitute for the license until the specified date for court appearance of licensee or the license is otherwise returned to the licensee by the officer or court accepting the same for deposit. (as added by Ord. #2-07, Feb. 2007)

15-132. Notification of change of address and/or name.

(1) Whenever any person, after applying for or receiving a license, moves from the address named in the application or license, or when the name of a licensee is changed for any reason, the person shall within ten (10) days thereafter notify the department of safety of the change or changes. It is unlawful to fail to comply with the requirements of this subsection.

(2) Whenever any person, after applying for or receiving a title or registration, moves from the address named in the application or title or registration, or when the name of an applicant is changed for any reason, the person shall within ten (10) days thereafter, notify the department of safety of the change or changes. It is unlawful to fail to comply with the requirements of this subsection. (as added by Ord. #14-2015, Sept. 2015)

¹State law reference <u>Tennessee Code Annotated</u>, § 55-4-101

²State law reference <u>Tennessee Code Annotated</u>, § 55-50-351

CHAPTER 2

VEHICLE EQUIPMENT

SECTION

- 15-201. Horns and other warning devices generally.
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- 15-205. Windshield wiper required.
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- 15-224. Electronic tracking of motor vehicles.
- 15-225. Radar jamming device.
- 15-226. Child passenger restraint systems.
- 15-227. Use of safety belts in passenger vehicles.
- 15-228. Illumination of registration (license) plate.

15-201. <u>Horns and other warning devices generally</u>. Every motor vehicle, when operated upon any street of the city, shall be equipped with a horn in good working order capable of emitting sound audible, under normal conditions, from a distance of not less than two hundred (200) feet, and it shall be unlawful, except as otherwise provided in this chapter, for any vehicle to be equipped with or for any person to use upon a vehicle any siren, exhaust, compression or spark plug whistle. (1969 Code, § 24-36)

15-202. Limitation on use of horn or other warning device.

(1) It shall be unlawful for the owner or operator of any motor vehicle to blow or sound the horn or other warning device of such vehicle at any time on the streets of the city except as a necessary warning in an emergency when necessary to prevent an accident or injury to pedestrians or the drivers of other vehicles.

(2) It shall be unlawful for any person at any time to make any unnecessary or unreasonably loud or harsh sound by means of a horn or other warning device on a vehicle. (1969 Code, § 24-37)

15-203. <u>Muffler required</u>. No person shall drive a motor vehicle on any street unless such motor vehicle is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke. (1969 Code, § 24-38)

15-204. <u>Muffler cutouts prohibited</u>. It shall be unlawful for any person to use a muffler cutout on any motor vehicle upon a street in the city. (1969 Code, § 24-39)

15-205. <u>Windshield wiper required</u>. Every motor vehicle having a windshield shall be equipped with at least one (1) windshield wiper in good working condition for cleaning rain, snow or other moisture from the windshield in order to provide clear vision for the driver. (1969 Code, § 24-40)

15-206. <u>Headlights required generally</u>. Every motor vehicle, other than a motorcycle, motor scooter, motor bike, road roller, road machinery or farm tractor, shall be equipped with at least two (2) and not more than four (4) headlights, with at least one (1) on each side of the front of the motor vehicle. (1969 Code, § 24-41)

15-207. <u>Headlights required for motorcycles, motor scooters and</u> <u>motor bikes</u>. Every motorcycle, motor scooter and motor bike shall be equipped with at least one (1) and not more than two (2) headlamps. (1969 Code, § 24-42)

15-208. <u>Standards for headlights; times for display</u>. (1) The headlights of every motor vehicle shall be so constructed, equipped, arranged, focused, aimed and adjusted that they will, at all times and under normal atmospheric conditions and on a level road, produce a driving light sufficient to render clearly discernible a person two hundred (200) feet ahead, but shall not project a glaring or dazzling light to persons in front of such headlights. Such headlights shall be displayed during the period from one-half (½) hour after

sunset to one-half (½) hour before sunrise, during fog, smoke, or rain and at all other times when there is not sufficient light to render clearly discernable any person on the road at a distance of two hundred (200) feet ahead of such vehicle.

(2) Operation of headlights during periods of rain, as required in this section, shall be made during any time when rain, mist, or other precipitation, including snow, necessitates the constant use of windshield wipers by motorists.

(3) Any person convicted of a violation of subsection (2) shall not be assessed court costs.¹ (Ord. #2-95, Feb. 1995, § 2, as amended by Ord. #21-06, Dec. 2006)

15-209. <u>Restriction of steady burning lights visible from front</u>. No vehicle operated in this state shall be equipped with any steady-burning lights that display to the front of the vehicle in any color other than white or amber or in any combination of colors other than white and amber, except for the following vehicles:

(1) A vehicle equipped with headlamps, daytime running lamps, or other similar devices in any color or combination of colors between white and amber authorized by the Federal Motor Vehicle Safety Standard No. 108, as adopted by the national highway traffic safety administration and compiled in 49 CFR 571.108;

(2) A motor vehicle operated for the purposes of an emergency equipment company may display steady-burning red, white, blue, or amber lights, or any combination of steady-burning red, white, blue, and amber lights pursuant to <u>Tennessee Code Annotated</u>, § 55-9-402(9); provided, that emergency equipment company vehicles shall not display or illuminate the lights authorized by this section while the vehicle is on a public road, whether in motion or stationary;

(3) A school bus, a passenger motor vehicle operated by rural mail carrier of the United States postal service while performing the duties of a rural mail carrier, or an emergency vehicle used in firefighting, including ambulances, emergency vehicles used in firefighting that are owned or operated by the division of forestry, firefighting vehicles, rescue vehicles, privately owned vehicles of regular or volunteer firefighters certified in <u>Tennessee Code</u> <u>Annotated</u>, § 55-9-201(c), or other emergency vehicles used in firefighting owned, operated, or subsidized by the governing body of any county or municipality, may display steady-burning red lights; and

(4) Authorized law enforcement vehicles and other vehicles listed in <u>Tennessee Code Annotated</u>, § 55-9-414 may display steady-burning red, white, and blue lights in combination. (1969 Code, § 24-44, as replaced by Ord. #2-2018, March 2018)

¹State law reference

Tennessee Code Annotated, § 55-9-406.

15-210. <u>Restriction of flashing lights visible from front</u>. No vehicle operated in this state shall be equipped with any flashing lights in any color or combination of colors that display to the front of the vehicle, other than factory installed emergency flashers, except as provided in this section and for the following vehicles:

(1) Motorcycle escorts of properly identified funeral processions authorized by <u>Tennessee Code Annotated</u>, § 55-8-183 to display green strobe flashing lights;

(2) Vehicles owned by or leased to licensed public or private security services but not personally owned vehicles of security guards may display flashing lights in any color other than red, white, or blue, or in any combination of colors other than red, white, or blue; provided, that the flashing lights authorized by this subsection for security service vehicles shall not be operated or illuminated while the vehicle is on a public road, in motion or stationary, and shall only be illuminated when patrolling a shopping center or mall parking lot or other private premises or if stopped in a hazardous location for the purposes of warning;

(3) A highway maintenance or utility vehicle or recovery vehicle may display flashing white or amber lights or any combination of flashing white and amber lights pursuant to <u>Tennessee Code Annotated</u>, § 55-9-402(e);

(4) A motor vehicle operated for the purposes of an emergency equipment company pursuant to subsection (7) may display flashing red, white, blue, or amber lights or any combination of flashing red, white, blue, and amber lights; provided, that emergency equipment company vehicles shall not display or illuminate the lights authorized by this section while the vehicle is on a public road, whether in motion or stationary;

(5) A passenger motor vehicle operated by an organ procurement organization or a person under an agreement with an organ procurement organization may display flashing white or amber lights or flashing white and amber lights in combination when transporting an organ for human transplantation;

(6) A school bus, passenger motor vehicle operated by a rural mail carrier of the United States postal service while performing the duties of a rural mail carrier, or an emergency vehicle used in firefighting, including ambulances, emergency vehicles used in firefighting that are owned or operated by the division of forestry, firefighting vehicles, rescue vehicles, privately owned vehicles of regular or volunteer firefighters certified in <u>Tennessee Code Annotated</u>, § 55-9-201(c), or other emergency vehicles used in firefighting owned, operated, or subsidized by the governing body of any county or municipality, may display flashing red or white lights or flashing red and white lights in combination; and

(7) Authorized law enforcement vehicles and other vehicles authorized by <u>Tennessee Code Annotated</u>, § 55-9-414 to display flashing red, white, and

blue lights in combination. (1969 Code, § 24-45, as replaced by Ord. #2-2018 March 2018)

15-211. <u>**Tail lamp and stop light**</u>. Every motor vehicle shall be equipped with at least one red tail lamp on the rear of such vehicle and at least one red or amber stop light on the rear of such vehicle. The stop light shall be so arranged as to be actuated by the application of the service or foot brakes and shall be capable of being seen and distinguished from a distance of two hundred (200) feet to the rear of the motor vehicle in normal daylight, but shall not project a glaring or dazzling light. The stop light may be incorporated with the tail lamp. (1969 Code, § 24-46)

15-212. <u>Use of multiple-beam lighting equipment</u>. Whenever the road lighting equipment on a motor vehicle is so arranged that the driver may select at will between two (2) or more distributions of light from headlights or lamps or auxiliary road lighting lamps or lights or combinations thereof, directed to different elevations, the following requirements shall apply while driving during the times when lights are required by state law:

(1) When there is no oncoming vehicle within five hundred (500) feet, the driver shall use an upper distribution of light; provided, however, that a lower distribution of light may be used when fog, dust or other atmospheric conditions make it desirable for reasons of safety and where there is sufficient light to render clearly discernible persons and vehicles on the street at a distance of five hundred (500) feet ahead and when following another vehicle within five hundred (500) feet.

(2) When within five hundred (500) feet of an oncoming vehicle, a driver shall use a distribution of light so aimed that the glaring rays therefrom are not directed into the eyes of the oncoming driver. (1969 Code, \S 24-47)

15-213. <u>Brakes generally</u>. Every motor vehicle other than a motorcycle, motor scooter and motor bike, when operated upon a street, shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two (2) separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two (2) wheels of the vehicle. If these two (2) separate means of applying brakes are connected in any way, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels. (1969 Code, § 24-48)

15-214. <u>Brakes for motorcycles, motor scooters and motor bikes</u>. Every motorcycle, motor scooter and bicycle with motor attached, when operated upon a street, shall be equipped with at least one (1) brake, which may be operated by hand or foot. (1969 Code, § 24-49) 15-215. <u>Brakes for trailers and semitrailers</u>. Every trailer or semitrailer of a gross weight of three thousand (3,000) pounds or more, when operated upon a street, shall be equipped with brakes adequate to control the movement of and stop and to hold such vehicle and so designed as to be applied by the driver of the towing motor vehicle from its cab. Such brakes shall be so designed and connected that, in case of an accidental breakaway of the towed vehicle, the brakes shall be automatically applied. (1969 Code, § 24-50)

15-216. <u>Performance ability of brakes</u>. (1) The service brakes upon any motor vehicle or combination of vehicles shall be adequate to stop such vehicle or vehicles when traveling twenty (20) miles per hour within a distance of thirty (30) feet when upon dry asphalt or concrete pavement surface free from loose material where the grade does not exceed one percent (1%).

(2) Under the above conditions, the hand brake shall be adequate to stop such vehicle or vehicles within a distance of fifty-five (55) feet and such hand brake shall be adequate to hold such vehicle or vehicles stationary on any grade upon which operated.

(3) Under the above conditions, the service brakes upon a motor vehicle equipped with two (2) wheel brakes only, when permitted under this chapter, shall be adequate to stop the vehicle within a distance of forty (40) feet and the hand brake adequate to stop the vehicle within a distance of fifty-five (55) feet.

(4) All braking distances specified in this section shall apply to all vehicles mentioned, whether such vehicles are not loaded or are loaded to the maximum capacity permitted in this chapter. (1969 Code, § 24-51)

15-217. <u>Maintenance and adjustment of brakes</u>. All brakes specified in this chapter shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (1969 Code, § 24-52)

15-218. <u>Rearview mirror for trucks</u>. Any motor truck using the streets, which, by reason of their construction, either loaded or unloaded, prevent the driver's view of the rear, shall be equipped with a mirror arranged in such a manner and maintained so that the driver or operator may view the roadway to the rear and note the approach of vehicles from the rear of such motor truck. (1969 Code, § 24-53)

15-219. <u>Mudguards for trucks</u>. No person shall operate upon a street any motor vehicle or combination of vehicles having a carrying capacity in excess of three thousand (3,000) pounds, which motor vehicle or combination of vehicles is not equipped with rear fenders, mud flaps or mudguards which shall be of such size as will substantially prevent the projection of rocks, dirt, water or other substances to the rear. (1969 Code, § 24-54) 15-220. <u>Windshield for motorcycles and motor-driven cycles</u>. Every motorcycle or motor-driven cycle operated upon any highway or public road of this city shall be equipped with a windshield of a type approved by the state commissioner of safety. This section shall not apply if the operator and every passenger on such motorcycle or motor-driven cycle are wearing safety goggles in accord with § 15-113. (1969 Code, § 24-56)

15-221. <u>Motor vehicle windows with tinting, reflecting or sun</u> <u>screen material</u>. (1) It is unlawful for any person to operate, upon a public roadway, street or road, any motor vehicle registered in this state, in which any window, which has a visible light transmittance equal to, but not less than, that specified in the Federal Motor Vehicle Safety Standard No. 205, has been altered, treated or replaced by the affixing, application or installation of any material which:

(a) Has a visible light transmittance of less than thirty-five percent (35%); or

(b) With the exception of the manufacturer's standard installed shade band, reduces the visible light transmittance in the windshield below seventy percent (70%).

(2) Any person who installs window tinting materials for profit, barter, or wages and/or commissions is defined as a "professional installer" for the provisions of this section, and it is unlawful for a professional installer to apply tinting materials to any vehicle so as to cause that vehicle to be in violation of this section. All professional installers of window tinting materials shall supply and shall affix to the lower right corner of the driver's window an adhesive label, the size and style of which shall be determined by the state commissioner of safety, which includes the installer's business name and the legend "Complies with <u>Tennessee Code Annotated</u>, § 55-9-107."

All professional installers of window tinting materials shall supply each customer with a signed receipt for each vehicle to which tinting materials have been applied which includes: the date of installation; the make, model, paint color and license plate number and state; the legend "Complies with <u>Tennessee</u> <u>Code Annotated</u>, § 55-9-107" at date of installation; and the legend "This receipt shall be kept with vehicle registration documents."

(3) The owner of any vehicle in question has the burden of proof that such vehicle is in compliance with the provisions of this section.

(4) Any vehicle model permitted by federal regulations to be equipped with certain windows tinted so as not to conform to the specifications of subsection (1)(a) is exempt from subsection (1)(a) with respect to those certain windows. Likewise, vehicles bearing commercial license plates or government service license plates that are used for law enforcement purposes shall be exempt from the specifications of subsection (1)(a) for those windows rearward of the front doors. This shall not be construed in any way to exempt the front door windows of any vehicle of any kind from the specifications of subsection (1)(a).

(5) Notwithstanding the provisions of subsection (1) to the contrary, any person with a medical condition that is adversely affected by ultraviolet light may submit a statement to the commissioner from that person's physician certifying that the person has a medical condition which requires reduction of light transmission in the windows of such person's vehicle in excess of the standards established in subsection (1). The commissioner shall submit the certified statement to the department's medical review board for evaluation. If the review board finds the exemption warranted, it shall recommend that the commissioner authorize the exemption, and the degree of tinting exemption which is appropriate. The commissioner shall then supply a certificate or decal, indicating the degree of exemption, to the applicant who shall display it in the motor vehicle.

(6) It is probable cause for a full-time, salaried police officer of this state to detain a motor vehicle being operated on the public roadways in the city when such officer has a reasonable belief that the motor vehicle is in violation of subdivision (a)(1), for the purpose of conducting a field comparison test.

(7) It is unlawful for the operator of a motor vehicle to refuse to submit to the field comparison test when directed to do so by a full-time, salaried police officer, or for any person to otherwise violate any provisions of this section. (as added by Ord. #21-06, Dec. 2006)

15-222. <u>Television in motor vehicles</u>.¹ (1) No television screen or other device of a similar nature shall be installed or used in this state in any position or location in a motor vehicle where it may be visible to the driver, or where it may in any other manner interfere with the safe operation and control of the vehicle. It is unlawful for any person to install or cause to be installed a television screen or other device of a similar nature, in violation of the provisions of this section, or to operate upon the public roadways, or sell within this state, any motor vehicle which has a television screen or other device of a similar nature installed in violation of the provisions of this section.

(2) The prohibitions contained in this section do not apply to the following:

(a) Electronic displays used in conjunction with vehicle navigation systems;

(b) Closed circuit video monitors designed to operate only in conjunction with dedicated video cameras and used in rear-view systems on motor vehicles;

¹State law reference

Tennessee Code Annotated, § 55-9-105.

(c) Televison receivers or monitors used in government-owned vehicles by law enforcement officers in the course of their official duties; and

(d) Computer or other electronic displays or monitors used in utility vehicles by employees of the utility in the course of their official duties; provided, however, such use shall only be permitted while the vehicle is stopped, standing or parked. For purposes of this subsection, "utility" means any person, municipality, county, metropolitan government, cooperative, board, commission, district, or any entity created or authorized by public act, private act or general law to provide electricity, natural gas, water, waste water services, telephone service or any combination thereof, for sale to consumers in any particular service area.

(3) This section does not apply to local, state or federal law enforcement officers who are engaged in the performance of their official duties. (as added by Ord. #21-06, Dec. 2006)

15-223. <u>Obscene or patently offensive bumper stickers, window</u> <u>signs, etc., prohibited</u>.¹ To avoid distracting other drivers and thereby reduce the likelihood of accidents arising from lack of attention or concentration, the display of obscene and patently offensive movies, bumper stickers, window signs or other markings on or in a motor vehicle which are visible to other drivers is prohibited and display of such materials shall subject the owner of the vehicle on which they are displayed, upon conviction, to a fine of not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00). "Obscene" or "patently offensive" has the meaning specified in <u>Tennessee Code Annotated</u>, § 39-17-901. (as added by Ord. #21-06, Dec. 2006)

15-224. <u>Electronic tracking of motor vehicles</u>.² (1) Except as provided in subsection (2), it is an offense for a person to knowingly install, conceal or otherwise place an electronic tracking device in or on a motor vehicle without the consent of all owners of such vehicle for the purpose of monitoring or following an occupant or occupants of such vehicle. As used in this section, "person" does not include the manufacturer of the motor vehicle.

(2) (a) It shall not be a violation if the installing, concealing or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a law enforcement officer in furtherance of a criminal

²State law reference

¹State law reference

Tennessee Code Annotated, § 55-8-187.

Tennessee Code Annotated, § 39-13-606.

investigation and is carried out in accordance with applicable state and federal law.

(b) If the installing, concealing or placing of an electronic tracking device in or on a motor vehicle is by, or at the direction of, a parent or legal guardian who owns or leases such vehicle, and if such device is used solely for the purpose of monitoring the minor child of such parent or legal guardian when such child is an occupant of such vehicle, then the installation, concealment or placement of such device in or on such vehicle without the consent of any or all occupants in such vehicle shall not be a violation.

(c) It shall also not be a violation of this section if the installing, concealing or placing of an electronic tracking device in or on a motor vehicle is for the purpose of tracking the location of stolen goods being transported in such vehicle or for the purpose of tracking the location of such vehicle if it is stolen.

(3) The provisions of this section shall not apply to a tracking system installed by the manufacturer of a motor vehicle. (as added by Ord. #21-06, Dec. 2006)

15-225. <u>Radar jamming device</u>.¹ (1) It is an offense for any person to knowingly possess or sell a radar jamming device.

(2) It is an offense for any person to knowingly operate a motor vehicle with a radar jamming device in the motor vehicle.

(3) The provisions of this section shall not apply to law enforcement officers acting in their official capacity.

(4) Any radar jamming device that is used in violation of this section is subject to seizure by any law enforcement officer and may be confiscated and destroyed by order of the court in which a violation of this section is charged.

(5) <u>Definitions</u>. (a) "Radar jamming device" means any active or passive device, instrument, mechanism, or equipment that is designed or intended to interfere with, disrupt, or scramble the radar or laser that is used by law enforcement agencies and officers to measure the speed of motor vehicles. Radar jamming device includes, but is not limited to, devices commonly referred to as "jammers" or "scramblers."

(b) "Radar jamming device" does not include equipment that is legal under FCC regulations, such as a citizens' band radio, ham radio, or any other similar electronic equipment. (as added by Ord. #21-06, Dec. 2006)

¹State law reference

Tennessee Code Annotated,§ 39-16-610.

15-226. <u>Child passenger restraint system</u>.¹ (1) Any person transporting any child, under one (1) year of age, or any child, weighing twenty pounds (20 lbs.) or less, in a motor vehicle upon a public roadway in the city is responsible for the protection of the child and properly using a child passenger restraint system in a rear facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(2) Notwithstanding the provisions of City Code § 15-227, any person transporting any child, one (1) through three (3) years of age weighing greater than twenty pounds (20 lbs.), in a motor vehicle upon a public roadway in the city is responsible for the protection of the child and properly using a child passenger restraint system in a forward facing position, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(3) Notwithstanding the provisions of City Code § 15-227, any person transporting any child, four (4) through eight (8) years of age and measuring less than four feet, nine inches (4' 9") in height, in a passenger motor vehicle upon a public roadway in the city is responsible for the protection of the child and properly using a belt positioning booster seat system, meeting federal motor vehicle safety standards in the rear seat if available or according to the child safety restraint system or vehicle manufacturer's instructions.

(4) If a child is not capable of being safely transported in a conventional child passenger restraint system as provided for in this section, a specially modified, professionally manufactured restraint system meeting the intent of this section shall be in use; provided, however, that the provisions of this subsection shall not be satisfied by use of the vehicle's standard lap or shoulder safety belts independent of any other child passenger restraint system. A motor vehicle operator who is transporting a child in a specially modified, professionally manufactured child passenger restraint system shall possess a copy of the physician's signed prescription that authorizes the professional manufacture of the specially modified child passenger restraint system.

(a) A person shall not be charged with a violation of this section if such person presents a copy of the physician's prescription in compliance with the provisions of this subsection to the arresting officer at the time of the alleged violation.

(b) A person charged with a violation of this section may, on or before the court date, submit a copy of the physician's prescription and evidence of possession of a specially modified, professionally manufactured child passenger restraint system to the court. If the court is satisfied that compliance was in effect at the time of the violation, the

¹State law reference

Tennessee Code Annotated,§ 55-9-602.

charge for violating the provisions of this subsection (a) may be dismissed.

(5) In addition to or in lieu of the penalty imposed, persons found guilty of a first offense of violating subsections (1) through (4) 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.

(6) Notwithstanding the provisions of City Code § 15-227, any person transporting any child, nine (9) through twelve (12) years of age, or any child through twelve (12) years of age, measuring four feet, nine inches (4' 9") or more in height, in a passenger motor vehicle upon a public roadway in the city is responsible for the protection of the child and properly using a seat belt system meeting federal motor vehicle safety standards. It is recommended that any such child be placed in the rear seat if available.

(7) Notwithstanding the provisions of City Code § 15-227, any person transporting any child, thirteen (13) through fifteen (15) years of age, in a passenger motor vehicle upon a public roadway in the city is responsible for the protection of the child and properly using a passenger restraint system, including safety belts, meeting federal motor vehicle safety standards.

(8) A person charged with a violation of subsection (6) or (7) may, in lieu of appearance in court, submit a fine of fifty dollars (\$50.00) to the city court clerk.

(9) No litigation tax shall be imposed or assessed against anyone convicted of a violation of subsection (6) or (7), nor shall any clerk's fee or court costs, including but not limited to any statutory fees of officers, be imposed or assessed.

(10) Notwithstanding any provision of law to the contrary, no more than one (1) citation may be issued for a violation of subsection (6) or (7) per vehicle per occasion. If the driver is neither a parent nor legal guardian of the child and the child's parent or legal guardian is present in the vehicle, the parent or legal guardian is responsible for ensuring that the provisions of subsection (6) or (7) are complied with. If no parent or legal guardian is present at the time of the violation, the driver is solely responsible for compliance with subsection (6) or (7). (as added by Ord. #21-06, Dec. 2006)

15-227. <u>Use of safety belts in passenger vehicles</u>.¹ (1) No person shall operate a passenger motor vehicle on any public roadway in the city unless such person and all passengers four (4) years of age or older are restrained by a safety belt at all times the vehicle is in forward motion.

¹State law reference <u>Tennessee Code Annotated</u>, § 55-9-603.

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(3) Notwithstanding any provision of this section to the contrary, no person between sixteen (16) years of age and up to and through the age of seventeen (17) years of age, shall operate a passenger motor vehicle, or be a passenger therein, unless such person is restrained by a safety belt at all times the vehicle is in forward motion. Notwithstanding subsection (4), the provisions of this subsection (3) shall apply to all occupants between sixteen (16) years of age and eighteen (18) years of age occupying any seat in a passenger motor vehicle.

(4) The provisions of this section shall apply only to the operator and all passengers occupying the front seat of a passenger motor vehicle. If the vehicle is equipped with a rear seat which is capable of folding, the provisions of this section shall only apply to front seat passengers and the operator if the back seat is in the fold down position.

(5) A law enforcement officer observing a violation of this section shall issue a citation to the violator, but shall not arrest or take into custody any person solely for a violation of this section.

(6) Notwithstanding the provisions of subsection (4), no person with a learner permit or an intermediate driver license shall operate a passenger motor vehicle in this state unless such person and all passengers between the ages of four (4) and seventeen (17) years of age are restrained by a safety belt at all times the vehicle is in forward motion.

(7) As used in this section, unless specified otherwise, "passenger car" or "passenger motor vehicle" means any motor vehicle with a manufacturer's gross vehicle weight rating of eight thousand five hundred pounds (8,500 lbs.) or less, that is not used as a public or livery conveyance for passengers. "Passenger car" or "passenger motor vehicle" does not apply to motor vehicles which are not required by federal law to be equipped with safety belts.

(8) (a) Effective January 1, 2016, the fine amount shall increase to twenty-five dollars (\$25.00) for a first violation and fifty dollars (\$50.00) for a second or subsequent violation.

(b) Effective January 1, 2016, the fine amount shall increase to twenty-five dollars (\$25.00).

(9) No clerk's fee nor court costs, including, but not limited to, any statutory fees of officers, shall be imposed or assessed against anyone convicted of a violation of this section. No litigation tax levied shall be imposed or assessed against anyone convicted of a violation of this section.

(10) This section does not apply to:

(a) A passenger or operator with a physical disability which prevents appropriate restraint in a safety seat or safety belt; provided, that the condition is duly certified in writing by a physician who shall state the nature of the disability, as well as the reason a restraint is inappropriate;

(b) A passenger motor vehicle operated by a rural letter carrier of the United States postal service while performing the duties of a rural letter carrier;

(c) Salespersons or mechanics employed by an automobile dealer who, in the course of their employment, test-drive a motor vehicle, if such dealership customarily test-drives fifty (50) or more motor vehicles a day, and if such test-drives occur within one (1) mile of the location of the dealership;

(d) Utility workers, water, gas and electric meter readers while the meter reader or utility worker is emerging from and reentering a vehicle at frequent intervals and operating the vehicle at speeds not exceeding forty miles per hour (40 mph);

(e) A newspaper delivery motor carrier service while performing the duties of a newspaper delivery motor carrier service; provided, that this exemption shall only apply from the time of the actual first delivery to the customer until the last actual delivery to the customer;

(f) A vehicle in use in a parade if operated at less than fifteen miles per hour (15 mph);

(g) A vehicle in use in a hayride if operated at less than fifteen miles per hour (15 mph); or

(h) A vehicle crossing a public roadway from one (1) field to another if operated at less than fifteen miles per hour (15 mph). (as added by Ord. #21-06, Dec. 2006, and amended by Ord. #14-2015, Sept. 2015)

15-228. <u>Illumination of registration (license) plate</u>. (1) For all motor vehicles that are factory-equipped to illuminate the registration (license) plate, the registration (license) plate shall be illuminated at all times that headlights are illuminated. This section is not applicable to antique vehicles as defined in Tennessee Code Annotated, § 55-4-111(b).

(2) It is unlawful to fail to comply with the requirements of this section. By <u>Tennessee Code Annotated</u>, § 55-4-110(d)(3), a violation of this section is subject only to imposition of a fine of ten dollars (\$10.00) for a first violation and twenty dollars (\$20.00) for second and subsequent violations, and no litigation tax, clerk's fee, or court costs shall not be imposed.

(3) By <u>Tennessee Code Annotated</u>, § 55-4-110(d)(3), a traffic citation that is based solely upon a violation of this section shall be considered a nonmoving traffic violation and no points shall be added to a driver record for the violation. (as added by Ord. #14-2015, Sept. 2015)

CHAPTER 3

OPERATION OF VEHICLES GENERALLY

SECTION

- 15-301. Prohibited use of hand-held mobile telephone in marked school zone; prohibited use of mobile telephone with hands-free device by person under 18.
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- 15-345. Accidents involving damage to vehicles.
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- 15-348. Automated enforcement.
- 15-349. Texting while driving prohibited.

15-301. <u>Prohibited use of hand-held mobile telephone in marked</u> school zone; prohibited use of mobile telephone with hands-free device by person under 18. (1) As used in this section:

(a) "Hands-free device" means a device that is designed to allow two-way communication via mobile telephone without the necessity of holding the mobile telephone, such as a speakerphone or headset; and

(b) "Mobile telephone" means a cellular, analog, wireless, or digital device that provides for voice communication or for both voice and data communication. "Mobile telephone" does not include a two-way radio or push-to-talk device.

(2) (a) It is an offense for a person to knowingly operate a motor vehicle in any marked school zone in this state, when a warning flasher or flashers are in operation, and talk on a hand-held mobile telephone while the vehicle is in motion.

(b) It is a delinquent act for a person under eighteen (18) years of age to knowingly operate a motor vehicle on any road or highway in this state and talk on a mobile telephone that is equipped with a hands-free device while the vehicle is in motion.

(c) This section does not prohibit a person eighteen (18) years of age or older from operating a motor vehicle in any marked school zone in this state, when a warning flasher or flashers are in operation, and talking on a mobile telephone that is equipped with a hands-free device while the vehicle is in motion.

(3) This section shall not apply to the following persons:

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(a) Officers of the state or of any county, city, or town charged with the enforcement of the laws of the state, when in the actual discharge of their official duties;

(b) Campus police officers and public safety officers, as defined by <u>Tennessee Code Annotated</u>, § 49-7-118, when in the actual discharge of their official duties;

(c) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties;

(d) Emergency management agency officers of the state or of any county, city, or town, when in the actual discharge of their official duties; and

(e) Persons using a mobile telephone to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property.

(3) (a) A violation of subsection (2)(a) is a Class C misdemeanor punishable only by a fine not to exceed fifty dollars (\$50.00); and

(b) A violation of subsection (2)(b) is punishable only by a fine not to exceed fifty dollars (\$50.00).

(5) Any person violating this section is subject to the imposition of court costs, including any statutory fees of officers; provided, that the court costs, including any statutory fees of officers, shall not exceed ten dollars (\$10.00). No state or local litigation taxes are applicable to a case prosecuted under this section.

(6) A traffic citation that is based solely upon a violation of this section is a nonmoving traffic violation and no points shall be added to a driver record for the violation. (1969 Code, § 24-85, as deleted by Ord. #5-07, April 2007, and added by Ord. #2-2018, March 2018)

15-302. <u>Duty to drive on right side of roadway</u>. (1) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:

(a) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement.

(b) When the right half of a roadway is closed to traffic while under construction and repair.

(c) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon.

(d) Upon a roadway designated and signposted for oneway traffic.

(2) Upon all roadways, any vehicle proceeding at less than normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or 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 at an intersection or into a private road or driveway. (1969 Code, § 24-86)

15-303. <u>Certain trucks to be operated in outer lanes of streets</u>. No person shall operate a truck of a load capacity in excess of one and one-half $(1\frac{1}{2})$ tons on any street in the city except upon and within the lane adjacent to and nearest to the outside of the street. (1969 Code, § 24-87)

15-304. <u>Blocking intersections prohibited</u>. No person shall drive, park or stop a vehicle in an intersection in such a manner that the rightful use of such intersection is prevented. (1969 Code, § 24-88)

15-305. <u>Passing vehicles proceeding in opposite direction</u>. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one (1) line of traffic in each direction, each driver shall give to the other at least one-half (½) of the main-traveled portion of the roadway as nearly as possible. (1969 Code, § 24-89)

15-306. <u>Passing vehicle proceeding in same direction--generally</u>.

(1) Except as otherwise provided in § 15-307, the driver of a vehicle overtaking 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 roadway until safely clear of the overtaken vehicle.

(2) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free from oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred (100) feet of any vehicle approaching from the opposite direction.

(3) No vehicle shall at any time to be driven to the left side of the roadway under the following conditions:

(a) When approaching the crest of a grade or upon a curve in the street where the driver's view is obstructed within three hundred (300) feet for such distance as to create a hazard in the event another vehicle might approach from the opposite direction.

(b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing.

(c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

The foregoing limitations of subsection (3) shall not apply upon a one-way roadway.

(4) When traveling within a school zone during recess, or while children are going to or leaving school during its opening or closing hours or during its lunch hours, while children are going to or leaving school grounds

during opening and closing hours of a school-sponsored after school program or before school program, or at any time while the lights are flashing indicating a speed limit of 15 m.p.h. (1969 Code, § 24-90, as amended by Ord. #9-02, May 2002)

15-307. <u>Passing vehicle proceeding in same direction-on right</u> <u>side</u>. (1) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn.

(b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction.

(c) Upon a one-way street, or upon any roadway on which traffic is restricted to one (1) direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

(2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or maintraveled portion of the roadway.

(3) The driver of a vehicle may not overtake and pass upon the right of another vehicle when traveling within a school zone during recess, or while children are going to or leaving school during its opening or closing hours or during its lunch hours, while children are going to or leaving school grounds during opening and closing hours of a school-sponsored after school program or before school program, or at any time while the lights are flashing indicating a speed limit of 15 m.p.h. (1969 Code, § 24-91, as amended by Ord. #9-02, May 2002)

15-308. <u>Passing vehicle proceeding in same direction--duty of</u> <u>driver of overtaken vehicle</u>. Except when overtaking and passing on the right is permitted, the driver of an 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 or her vehicle until completely passed by the overtaking vehicle. (1969 Code, § 24-92)

15-309. <u>No-passing zone</u>. The city manager is hereby authorized to determine those portions of any street where overtaking and passing or driving to the left of the roadway would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to

an ordinarily observant person, every driver of a vehicle shall obey the directions thereof. (1969 Code, § 24-93)

15-310. <u>One-way streets--designation</u>. The city manager may designate any street or separate roadway for one-way traffic and shall erect appropriate signs giving notice thereof. (1969 Code, § 24-94)

15-311. <u>One-way streets--vehicles to be driven only in designated</u> <u>direction</u>. Upon a roadway designated and signposted for one-way traffic, a vehicle shall be driven only in the direction designated. (1969 Code, § 24-95)

15-312. <u>Driving around rotary traffic island</u>. A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (1969 Code, § 24-96)

15-313. <u>Driving on roadways laned for traffic</u>. Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules, in addition to all others consistent herewith, shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(2) Upon a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn, or where such center lane is, at the time, allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

(3) Official signs may be erected by the city manager directing slowmoving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction, regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such sign. (1969 Code, § 24-97)

15-314. <u>Driving on divided streets</u>. Whenever any street has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway and no vehicle shall be driven over, across, or within any such dividing space, barrier or section, except through an opening in such physical barrier or dividing section or space or at a cross-over or intersection established for that purpose. (1969 Code, § 24-98)

15-315. <u>**Right-of-way at uncontrolled intersections</u></u>. The driver of a vehicle approaching an intersection not controlled by a traffic sign or signal shall yield the right-of-way to a vehicle which has entered the intersection from a different street. When two (2) vehicles enter such an intersection from different streets at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right. (1969 Code, § 24-99)</u>**

15-316. <u>Stop intersections</u>. (1) The city manager is hereby authorized to designate through streets and to have stop signs erected at intersections requiring drivers to stop when approaching such through streets. The city manager is hereby further authorized to designate stop intersections and to have stop signs erected at one or more entrances thereto, although not a part of a designated through street.

(2) The driver of a vehicle approaching a stop sign erected pursuant to this section shall stop such vehicle before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway, before entering the intersection, except when directed to proceed by a police officer or traffic-control signal.

(3) The driver of a vehicle who has stopped in accord with this section shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so closely as to constitute an immediate hazard, but such driver, having so yielded, may proceed and the drivers of all other vehicles approaching the intersection on the intersecting street shall yield the right-ofway to the vehicle proceeding into or across such street.

(4) Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of any ordinance heretofore passed designating any through street. (1969 Code, § 24-100)

15-317. <u>Yield intersections</u>. The city manager is hereby authorized to designate, by appropriate signs, intersections at which the drivers of vehicles shall yield the right-of-way to other vehicle approaching on another street. Whenever a "yield right-of-way" sign has been erected pursuant to this section, all drivers approaching such sign shall proceed with caution, slowing down or stopping, if necessary, so as not to interfere with traffic moving on the intersecting street, and such drivers shall not proceed into the intersecting street until such movement can be made with safety. (1969 Code, § 24-101)

15-318. Entering street from alley, building or private road or driveway. (1) The driver of a vehicle about to enter or cross a street from a private road or driveway shall yield the right-of-way to all vehicles approaching on the street.

(2) The driver of a vehicle within a business or residence district emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway. (1969 Code, § 24-102)

15-319. <u>Turning movements generally</u>. (1) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required by § 15-320, or turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway, unless and until such movement can be made with reasonable safety.

(2) <u>Turning on curve or crest of grade prohibited</u>.¹ No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet (500'). (1969 Code, § 24-103, as amended by Ord. #21-06, Dec. 2006)

15-320. <u>Required position and method of turning at intersections</u>. Except as otherwise provided in § 15-321, the driver of a vehicle intending to turn at an intersection shall do so as follows:

(1) <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.

(2) <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 such center line where it enters the intersection and, after entering the intersection, the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection.

(3) <u>Left turns on other than two-way roadways</u>. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and, after entering the

¹State law reference

Tennessee Code Annotated, § 55-8-141.

intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

(4) <u>Two-way left turn lanes</u>.¹ Where a special lane for making left turns by drivers proceeding in opposite directions has been established:

(a) A left turn shall not be made from any other lane unless a vehicle cannot safely enter the turn lane;

(b) A vehicle shall not be driven in the left turn lane except when preparing for or making a left turn from or into the roadway;

(c) A vehicle shall not use the left turn lane solely for the purpose of passing another vehicle;

(d) A vehicle shall not enter a left turn lane more than a safe distance from the point of the intended turn;

(e) When any vehicle enters the turn lane, no other vehicle proceeding in an opposite direction shall enter the turn lane if such entrance would prohibit the vehicle already in the lane from making the intended turn; and

(f) When vehicles enter the turn lane proceeding in opposite directions, the first vehicle to enter the lane shall have the right-of-way. (1969 Code, § 24-104, as amended by Ord. #21-06, Dec. 2006)

15-321. <u>Markers, buttons or signs, regulating turns</u>. The city manager may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in § 15-320 be traveled by vehicles turning at an intersection and, when markers, buttons or signs are so placed, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs. (1969 Code, § 24-105)

15-322. <u>**Right-of-way when turning left at intersection**</u>. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but such driver, having so yielded and having given a signal when and as required by this chapter, may make such left turn and the drivers of all other vehicles approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn. (1969 Code, § 24-106)</u>

15-323. <u>Limitations on turning around</u>. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver

¹State law reference

Tennessee Code Annotated, § 55-8-140.

of any other vehicle approaching from either direction within five hundred (500) feet. (1969 Code, § 24-107)

15-324. Starting, stopping and turning signals--generally. Every driver of a vehicle who intends to start, stop or turn, or partly turn from a direct line, shall first see that such movement can be made in safety and, whenever the operation of any other vehicle may be affected by such movement, shall give a signal, plainly visible to the driver of such other vehicle, of his or her intention to make such movement. Such signal shall be given continuously for a distance of at least fifty (50) feet before stopping, turning, partly turning, or materially altering the course of the vehicle. The signal herein required shall be given by means of the hand and arm, or by some mechanical or electrical device approved by the state department of safety; provided, however, that any motor vehicle in use on a street shall be equipped with, and the required signal shall be given by, a signal lamp or lamps or mechanical signal device approved by the state department of safety, when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four (24) inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen (14) feet. The latter measurement shall apply to any single vehicle and also to any combination of vehicles. (1969 Code, § 24-108)

15-325. <u>Starting, stopping and turning signals--method of giving</u> <u>with hand and arm</u>. Whenever the signal required by § 15-324 is given by means of the hand and arm, the driver shall indicate his or her intention to start, stop, or turn, or partly turn, by extending the hand and arm from and beyond the left side of the vehicle in the following manner:

(1) <u>Left turn</u>. For a left turn, or to pull to the left, the arm shall be extended in a horizontal position straight from and level with the shoulder.

(2) <u>Right turn</u>. For a right turn, or to pull to the right, the arm shall be extended upward.

(3) <u>Slowing down or stopping</u>. For slowing down or to stop, the arm shall be extended downward.

(4) <u>Starting</u>. Drivers of vehicles standing or stopped at the curb or edge, before moving such vehicles, shall give signals of their intention to move into traffic, as hereinbefore provided, before turning in the direction the vehicle shall proceed from the curb. (1969 Code, § 24-109)

15-326. <u>Starting, stopping and turning signals--change of</u> <u>direction after signal given</u>. Drivers having once given a hand, electrical or mechanical device signal, must continue the course thus indicated, unless they alter the original signal and take care that drivers of vehicles and pedestrians have seen and are aware of the change. (1969 Code, § 24-110)

15-327. <u>Starting, stopping and turning signals--duty of drivers</u> <u>receiving signal</u>. Drivers receiving a signal from another driver shall keep their vehicles under complete control and shall be able to avoid an accident resulting from a misunderstanding of such signal. (1969 Code, § 24-111)

15-328. Duty to stop at railroad crossing upon approach of train.

(1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he or she can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(b) A crossing gate is lowered or when a human flagperson gives or continues to give a signal of the approach or passage of a railroad train.

(c) A railroad train approaching within approximately one thousand five hundred (1,500) feet of the street crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard.

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (1969 Code, § 24-112)

15-329. Duty to stop at designated dangerous railroad crossings. The city manager, with the approval of the state department of highways and public works, is hereby authorized to designate particularly dangerous street grade crossings of railroads and to erect stop signs thereat. When such stop signs are erected, the driver of any vehicle shall stop within fifty (50) feet but not less than fifteen (15) feet from the nearest rail of such railroad and shall proceed only upon exercising due care. (1969 Code, § 24-113)

15-330. [Deleted.] (1969 Code, § 24-114, as deleted by Ord. #17-06, Sept. 2006)

15-331. <u>Sections 15-328, 15-329, and 15-330 do not affect rights in</u> <u>damage suits</u>. None of the provisions of §§ 15-328, 15-329, and 15-330 shall be construed as abridging or in any way affecting the common law right of recovery of litigants in damage suits that may be pending or brought against any railroad company or other common carrier. (1969 Code, § 24-115)

15-332. Moving heavy equipment at railroad grade crossings.

(1) No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten (10) or less miles per hour or a vertical body or load clearance of less than one-half $(\frac{1}{2})$ inch per foot of the distance between any two (2) adjacent axles or in any event of less than nine (9) inches, measured above the level surface of a railroad, upon or across any tracks at a railroad grade crossing without first complying with this section.

(2) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen (15) feet nor more than fifty (50) feet from the nearest rail of such railroad and, while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(3) No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagperson or otherwise of the immediate approach of a railroad train or car. If a flagperson is provided by the railroad, movement over the crossing shall be made under his or her direction. (1969 Code, § 24-116)

15-333. <u>Limitations on backing</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. (1969 Code, § 24-117)

15-334. <u>Coasting prohibited</u>. (1) The driver of any motor vehicle, when traveling upon a downgrade, shall not coast with the gears of such vehicle in neutral.

(2) The driver of a commercial motor vehicle, when traveling upon a downgrade, shall not coast with the clutch disengaged. (1969 Code, § 24-118)

15-335. Overtaking and passing church bus; discharging passengers. (1) The driver of a vehicle on a public roadway upon meeting or overtaking from either direction any church bus which has stopped on the public roadway for the purpose of receiving or discharging passengers shall stop the vehicle before reaching such church bus, and the driver shall not proceed until such church bus resumes motion or is signaled by the church bus driver to proceed or the visual signals on the bus are no longer actuated. In order for this section to apply, the church bus shall be equipped with the same type of safety equipment indicating the bus has stopped as is required by state law¹ for school buses.

¹State law reference

Tennessee Code Annotated, § 55-8-151.

(2) All motor vehicles used in transporting passengers to and from churches in this state are required to be distinctly marked "Church Bus" on the front and rear thereof in letters of not less than six inches (6") in height and so plainly written or printed and so arranged as to be legible to persons approaching such church bus, whether traveling in the same or the opposite direction.

(3) The driver of a vehicle upon a public roadway with separate roadways need not stop upon meeting or passing a church bus which is on a different roadway or when upon a controlled access highway and the church bus is stopped in a loading zone which is a part of or adjacent to such public roadway and where pedestrians are not permitted to cross the roadway. For the purposes of this subsection, "separate roadways" means roadways divided by an intervening space which is not suitable to vehicular traffic.

(4) The church bus driver is required to stop such church bus on the right-hand side of the public roadway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all passengers who should be discharged from the bus have been so discharged and until all passengers whose destination causes them to cross the public roadway at that place have negotiated such crossing. (1969 Code, § 24-119, as deleted by Ord. #17-06, Sept. 2006, and replaced by Ord. #21-06, Dec. 2006)

15-336. Overtaking and passing youth bus; discharging passengers. (1) The driver of a vehicle on a public roadway upon meeting or overtaking from either direction any youth bus which has stopped on the public roadway for the purpose of receiving or discharging passengers shall stop the vehicle before reaching such youth bus, and the driver shall not proceed until such youth bus resumes motion or is signaled by the youth bus driver to proceed or the visual signals on the bus are no longer actuated. In order for this section to apply, the youth bus shall be equipped with the same type of safety equipment indicating the bus has stopped as is required by state law¹ for school buses. For the purposes of this section, "youth bus" means a motor vehicle designed for carrying not less than fifteen (15) passengers and used for the transportation of persons.

(2) All motor vehicles owned by corporations or organizations used in transporting child passengers to and from child care centers in this state or to and from the activities of religious, charitable, scientific, educational, youth service or athletic institutions or organizations are required to be distinctly marked "Youth Bus" on the front and rear thereof in letters of not less than six inches (6") in height and so plainly written or printed and so arranged as to be

¹State law reference

Tennessee Code Annotated, § 55-8-151.

legible to persons approaching such youth bus, whether traveling in the same or the opposite direction.

(3) The driver of a vehicle upon a public roadway with separate roadways needs not stop upon meeting or passing a youth bus which is on a different roadway or when upon a controlled access highway and the youth bus is stopped in a loading zone which is a part of or adjacent to such public roadway and where pedestrians are not permitted to cross the roadway. For the purposes of this subsection, "separate roadways" means roadways divided by an intervening space which is not suitable to vehicular traffic.

(4) The youth bus driver is required to stop such youth bus on the right-hand side of the public roadway, and the driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all passengers who should be discharged from the bus have been so discharged and until all passengers whose destination causes them to cross the public roadway at that place have negotiated such crossing. (1969 Code, § 24-120, as deleted by Ord. #17-06, and replaced by Ord. #21-06, Dec. 2006)

15-337. Duties of driver of school bus when receiving or discharging passengers. A school bus driver is required to stop such school bus on the right-hand side of the road or street, and such driver shall cause the bus to remain stationary and the visual stop signs on the bus actuated until all schoolchildren who should be discharged from or received into the bus have been so discharged or received and until all children whose destination causes them to cross the road or street at that place have negotiated such crossing. (1969 Code, § 24-121)

15-338. <u>Following too closely</u>. (1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the street.

(2) The driver of any motor truck or motor vehicle drawing another vehicle, when traveling upon a roadway outside of a business or residence district, and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

(3) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions. (1969 Code, § 24-122)

15-339. Following fire apparatus or driving near fire. The driver of a vehicle, other than one on official business, shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred (500) feet or drive or park such vehicle within five hundred (500) feet of any place where fire apparatus has stopped in answer to a fire alarm. (1969 Code, \S 24-123)

15-340. <u>Driving over fire hose</u>. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command. (1969 Code, § 24-124)

15-341. <u>Driving when view or control obstructed</u>. (1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding four (4), as to obstruct the view of the driver to the front or sides of the vehicles or as to interfere with the driver's control over the driving mechanism of the vehicle.

(2) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his or her control over the driving mechanism of the vehicle. (1969 Code, § 24-125)

15-342. <u>Use of mobile telephone by school bus drivers</u>.¹ (1) No driver shall operate a school bus on a public roadway while using a hand held mobile telephone while such vehicle is in motion and such vehicle is transporting children; provided, however, that this section shall not apply to mobile telephone or two-way radio communications made to and from a central dispatch, school transportation department or its equivalent. For the purposes of this section, unless the context otherwise requires, "mobile telephone" means a cellular, analog, wireless or digital telephone.

(2) A violation of this section is punishable only by a fine of fifty dollars (\$50.00).

(3) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the driver's use of a mobile telephone was necessitated by a bona fide emergency. (1969 Code, § 24-126, as deleted by Ord. #17-06, Sept. 2006, and replaced by Ord. #21-06, Dec. 2006)

15-343. Driving without due caution; drivers to exercise due <u>caution</u>. (1) It shall be unlawful for any person to operate a motor vehicle upon any public street in the city without due caution, at a speed and in a manner to

¹State law reference

Tennessee Code Annotated, § 55-8-192.

endanger any person or property, taking into consideration traffic and road conditions.

(2) Notwithstanding any speed limit or zone in effect at the time, or right-of-way rules that may be applicable, every driver of a motor vehicle shall exercise due care to avoid colliding with any other motor vehicle, either being driven or legally parked, upon any roadway, or any road sign, guard rail or any fixed object legally placed within or beside the right-of-way, by operating such motor vehicle at a safe speed, by maintaining a safe outlook, by keeping such motor vehicle under proper control and by devoting full time and attention to operating such motor vehicle, under the existing circumstances to avoid endangering life, limb or property.¹ (1969 Code, § 24-127, as amended by Ord. #21-06, Dec. 2006)

15-344. <u>Through truck traffic on residential streets prohibited</u>; <u>exceptions</u>. (1) The city manager is hereby authorized to prohibit through truck traffic on city residential streets or portions thereof subject to the provisions hereof. Upon determining that a residential street or portion thereof should be closed to through truck traffic, the city manager shall file a notice of such prohibition with the city clerk and the city court clerk. The notice shall include the name of the street and the portion upon which through truck traffic is prohibited. The city manager shall thereupon cause to be posted signs prohibiting through truck traffic at the beginning of the portions of such streets so affected.

(2) For the purpose of this section "truck" is defined as a truck larger than one (1) ton in size. A "residential street" is a street along which residential dwellings are primarily located. "Through truck traffic" is truck traffic along a residential street or portion thereof without an intended destination upon such street or portion thereof. This section is intended to prohibit through truck traffic along designated streets, and nothing herein shall prohibit trucks in excess of one (1) ton from making stops or deliveries to properties located along the portions of streets upon which through truck traffic has been prohibited. Nothing herein shall prohibit trucks of the city or public or private utilities from traveling upon such streets or portions thereof in the course of their business.

(3) The city manager is authorized but not required to issue permits for trucks in excess of one (1) ton for through travel upon such streets. Such permits shall be issued for isolated and temporary uses where there is no other reasonable route available to the intended destination. Such permits shall be carried at all times when the truck is traveling upon such streets.

(4) It shall be unlawful for anyone to drive a truck upon a street or portion thereof upon which truck traffic has been prohibited as provided herein,

¹State law reference

Tennessee Code Annotated, § 55-8-136.

and anyone found guilty of violating this section shall be subject to a fine of up to fifty dollars (\$50.00). (1969 Code, § 24-128)

15-345. <u>Accidents involving damage to vehicle</u>.¹ The driver of any vehicle involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle at the scene of such accident or as close thereto as possible, but shall forthwith return to and in every event shall remain at the scene of such accident until that person has fulfilled the requirements of Tennessee Code Annotated, § 55-10-103 regarding the duty to give information and render aid. Every such stop shall be made without obstructing traffic more than is necessary. The requirements of this subsection (1) apply to accidents occurring upon public roadways and the premises of any shopping center, trailer park or any apartment house complex, or any other premises which are generally frequented by the public at large. (as added by Ord. #21-06, Dec. 2006)

15-346. <u>Transporting child in truck bed</u>.² (1) A person commits an offense who, on streets or public roadways within the city, transports a child between six (6) years of age and under twelve (12) years of age in the bed of a truck with a manufacturer's ton rating not exceeding three-quarter (3/4) ton and having a pickup body style.

(2) The provisions of this section do not apply to a person transporting such child in the bed of such vehicle when such vehicle is being used as part of an organized parade, procession, or other ceremonial event, and when such vehicle is not exceeding the speed of twenty miles per hour (20 mph). The provisions of this section do not apply when the child being transported is involved in agricultural activities. (as added by Ord. #21-06, Dec. 2006)

15-347. Obstruction to driver's view of driving mechanism.³

(1) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding four (4), as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.

¹State law reference <u>Tennessee Code Annotated</u>, § 55-10-102.

²State law reference <u>Tennessee Code Annotated</u>, § 55-8-189.

³State law reference <u>Tennessee Code Annotated</u>, § 55-8-165.

(2) No passenger in a vehicle shall ride in such position as to interfere with the driver's or operator's view ahead or to the sides, or to interfere with the driver's or operator's control over the driving mechanism of the vehicle. (as added by Ord. #21-06, Dec. 2006)

15-348. <u>Automated enforcement</u>. (1) <u>Definitions</u>. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

(a) "Citations" and "warning notices" shall include:

(i) The name and address of the registered owner of the vehicle;

(ii) The registration plate number of the motor vehicle involved in the violation;

(iii) The violation charged;

(iv) The location of the violation;

(v) The date and time of the violation;

(vi) A copy of the recorded image;

(vii) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;

(viii) A signed statement by a member of the police department that, based on inspection of recorded images, the motor vehicle was being operated in violation of subsection (3) of this section; and

(ix) Information advising the person alleged to be liable under this section:

(A) Of the manner and time in which liability alleged in the citation occurred and that the citation may be contested in the city court; and

(B) Warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(b) "In operation" means operating in good working condition.

(c) "Recorded images" means images recorded by a traffic control photographic system:

- (i) On:
 - (A) A photograph;
 - (B) A microphotograph;
 - (C) An electronic image;
 - (D) Videotape; or
 - (E) Any other medium; and

(ii) At least one (1) image or portion of tape, clearly identifying the registration plate number of the motor vehicle.

(d) "System location" is the approach to an intersection toward which a photographic, video or electronic camera is directed and is in operation.

(e) "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor installed to work in conjunction with an official traffic control sign, signal or device, and to automatically produce photographs, video or digital images of each vehicle violating a standard traffic control sign, signal or device.

(f) "Vehicle owner" is the person identified by the state department of safety as the registered owner of a vehicle.

(2) <u>General</u>. (a) The chief of police or the police chiefs designee shall administer the traffic control photographic systems and shall maintain a list of system locations where traffic control photographic systems are installed.

(b) The city shall adopt procedures for the issuance of citations and warnings under this section. A citation or warning alleging that the violation of subsection (3) of this section occurred, sworn to or affirmed by officials or agents of the city, based on inspection of recorded images produced by a traffic control photographic system, shall be evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation under this section. The citation or warning shall be forwarded by first-class mail to the owner's address as given on the motor vehicle registration. Personal service of process on the owner shall not be required.

(c) A notice of violation or citation shall allow for payment of such traffic violation or citation within thirty (30) days of the mailing of such notice. No additional penalty or other costs shall be assessed for non-payment of a traffic violation or citation that is based solely on evidence obtained from a surveillance camera installed to enforce or monitor traffic violations, unless a second notice is sent by first class mail to the registered owner of the motor vehicle and such second notice provides for an additional thirty (30) days for payment of such violation or citation.

(d) Signs to indicate the use of traffic control photographic systems shall be clearly posted.

(3) <u>Offense</u>. (a) It shall be unlawful for a vehicle to cross the stop line at a system location, or for a vehicle to drive at a speed exceeding the posted speed limit, or for a vehicle to violate any other traffic regulation specified in title 15 of the city code.

(b) A person who receives a citation under subsection (3) may:

(i) Pay the civil penalty, in accordance with instructions on the citation, directly to the city court; or

(ii) Elect to contest the citation for the alleged violation.

(c) The owner of a vehicle shall be responsible for a violation under this section, except when he or she can provide evidence that the vehicle was in the care, custody, or control of another person at the time of the violation, as described in subsection (3)(d) of this section, in which circumstance the person who had the care, custody, and control of the vehicle at the time of the violation shall be responsible.

(d) Notwithstanding subsection (3)(c) of this section, the owner of the vehicle shall not be responsible for the violation if, on the designated court date, he or she furnishes the city court:

(i) An affidavit by him or her stating the name and address of the person or entity who leased, rented, or otherwise had the care, custody, and control of the vehicle at the time of the violation; or

(ii) An affidavit by him or her stating that, at the time of the violation, the vehicle involved or its plates were stolen, and that he or she was not the operator of the vehicle. This affidavit must be accompanied by a certified copy of the police reporting reflecting such theft and the affidavit must be provided by the registered owner within thirty (30) days of the mailing date of the notice of violation.

(4) <u>Penalty</u>. (a) Any violation of subsection (3) of this section shall subject the responsible person or entity to a civil penalty of fifty dollars (\$50.00), without assessment of court costs or fees. Failure to pay the civil penalty or appear in court to contest the citation on the designated date shall subject the responsible person or entity to assessment of court costs and fees as set forth in the city code. The city may establish procedures for the trial of civil violators, and the collection of civil penalties and may enforce the penalties by a civil action in the nature of a debt.

(b) A violation for which a civil penalty is imposed under this section shall not be considered a moving violation and may not be recorded by the police department or the state department of safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage.

(5) <u>Exemptions</u>. The following vehicles are exempt from receiving a notice of violation:

(a) Emergency vehicles with active emergency lights;

(b) Vehicles moving through the intersection to avoid or clear the way for a marked emergency vehicle;

(c) Vehicles under police escort; and

(d) Vehicles in a funeral procession. (as added by Ord. #13-08, April 2008, and amended by Ord. #28-08, Sept. 2008)

15-349. <u>**Texting while driving prohibited.**</u> (1) For the purposes of this section, unless the context requires otherwise, the following definitions apply:

(a) "Mobile telephone" means a cellular, analog, wireless or digital device that provides for voice communication and for data communication other than by voice; and

(b) "Personal digital assistant" means a wireless electronic communication device that provides for data communication other than by voice.

(c) "Hands-free device" means a device that is designed to allow communication via mobile telephone or personal digital assistant without the necessity of holding the mobile telephone or personal digital assistant, such as a speakerphone or headset;

(2) (a) No person while driving a motor vehicle on any public road or highway shall use a hand-held mobile telephone or a hand-held personal digital assistant to transmit or read a written message; provided, that a driver does not transmit or read a written message for the purpose of this subsection (2) if the driver reads, selects, or enters a telephone number or name in a hand-held mobile telephone or a personal digital assistant for the purpose of making or receiving a telephone call.

(b) It is a delinquent act for a person under eighteen (18) years of age to knowingly operate a motor vehicle on any road or highway in this state and use a mobile telephone or personal digital assistant that is equipped with a hands-free device to transmit or read a written message.

(c) This section does not prohibit a person eighteen (18) years of age or older from operating a motor vehicle on any road or highway in this state and using a mobile telephone or personal digital assistant that is equipped with a hands-free device to transmit or read a written message.

(3) This section shall only apply to a person driving a motor vehicle that is in motion at the time a written message from a mobile telephone or hand-held personal digital assistant is transmitted or read by the person.

(4) It is unlawful to fail to comply with the requirements of this section. By <u>Tennessee Code Annotated</u>, § 55-8-1 99, a violation of this section is subject only to imposition of a fine not to exceed fifty dollars (\$50.00) and court costs not to exceed ten dollars (\$10.00), including, but not limited to, any statutory fees of officers. No state or local litigation taxes shall be applicable to a case prosecuted under this section.

(5) By <u>Tennessee Code Annotated</u>, § 55-8-199, this section shall not apply to the following persons:

(a) Officers of the state or of any county, city, or town charged with the enforcement of the laws of the state, when in the actual discharge of their official duties;

(b) Campus police officers and public safety officers, as defined by <u>Tennessee Code Annotated</u> § 49-7-1 18, when in the actual discharge of their official duties; Change 5, June 11, 2018

(c) Emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and career, when in the actual discharge of their official duties; and

(d) Emergency management agency officers of the state or of any county, city, or town, when in the actual discharge of their official duties.

(e) Persons using a mobile telephone or personal digital assistant to communicate with law enforcement agencies, medical providers, fire departments, or other emergency service agencies while driving a motor vehicle, if the use is necessitated by a bona fide emergency, including a natural or human occurrence that threatens human health, life, or property.

(6) By <u>Tennessee Code Annotated</u>, § 55-8-199, a traffic citation that is based solely upon a violation of this section shall be considered a nonmoving traffic violation and no points shall be added to a driver record for the violation. (as added by Ord. #14-2015, Sept. 2015, and amended by Ord. #2-2018, March 2018)

CHAPTER 4

TRAFFIC CONTROL DEVICES

SECTION

- 15-401. Obedience to devices; leaving roadway in order to avoid compliance.
- 15-402. When signs required.
- 15-403. Requirements for stop signs.
- 15-404. Traffic-control signal legend generally.
- 15-405. Flashing signals.
- 15-406. Unauthorized signs, signals, etc.
- 15-407. Altering, injuring, etc., devices.

15-401. <u>Obedience to devices; leaving roadway in order to avoid</u> <u>compliance</u>. (1) The drivers of vehicles and pedestrians shall obey the instructions of any official traffic-control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(2) It shall be unlawful for the operator of any vehicle to leave the roadway and travel across private property, or public property devoted to other than highway use, to avoid compliance with an official traffic signal or an official traffic sign or for the purpose of avoiding obedience to directions given by a police officer or any traffic regulation or ordinance. (Ord. #2-95, Feb. 1995, § 1)

15-402. <u>When signs required</u>. No provisions of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. When a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (1969 Code, § 24-140)

15-403. <u>Requirements for stop signs</u>. (1) Every stop sign shall bear the word "stop" in letters not less than eight (8) inches in height and such sign shall, at nighttime, be rendered luminous by steady or flashing internal illumination, or by a fixed floodlight projected on the face of the sign, or by efficient reflecting elements on the face of the sign.

(2) Every stop sign shall be erected as near as practicable to the nearest line of the crosswalk on the near side of the intersection or, if there is no crosswalk, then as close as practicable to the nearest line of the roadway. (1969 Code, § 24-141)

15-404. <u>Traffic-control signal legend generally</u>. Whenever traffic is controlled by traffic-control signals exhibiting the words "Go," "Caution" or

"Stop," or exhibiting different colored lights successively one at a time, or with arrows, the following colors only shall be used and such terms and lights shall indicate and apply to drivers or vehicles and pedestrians as follows:

(1) <u>Green alone or "Go."</u> (a) Vehicular traffic facing the signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn, but vehicular traffic, including vehicles turning right and 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) <u>Yellow alone or "Caution" when shown following the green or "Go"</u> <u>signal</u>. (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 cross the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) <u>Red alone or "Stop."</u> (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.

(b) No pedestrian facing such signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

(4) <u>Red with green arrow</u>. (a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow, but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) No pedestrian facing such signal shall enter the roadway unless he or she can do so safely and without interfering with any vehicular traffic.

In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which, by their nature, can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. (1969 Code, § 24-142)

15-405. <u>Flashing signals</u>. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) <u>Flashing red (stop signal)</u>. When a red lens is illuminated with rapid intermittent flashes, and such light is clearly visible for a sufficient distance ahead to permit such stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) <u>Flashing yellow (caution signal)</u>. When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. The conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in chapter 3 of this title. (1969 Code, § 24-143)

15-406. <u>Unauthorized signs, signals, etc</u>. (1) 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 device or railroad sign or signal, or which attempts to direct the movements of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, and no person shall place or maintain nor shall any public authority permit on any street any traffic sign or signal bearing thereon any commercial advertising.

(2) This section shall not be deemed to prohibit the erection, upon private property adjacent to streets, of signs giving useful directional information and of a type which cannot be mistaken for official signs.

(3) Every sign, signal or marking prohibited by this section is hereby declared to be a public nuisance and the city manager is hereby empowered to remove the same, or cause it to be removed, without notice. (1969 Code, § 24-144)

15-407. <u>Altering, injuring, etc., devices</u>. No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic-control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any part thereof. (1969 Code, \S 24-145)

CHAPTER 5

SPEED REGULATIONS

SECTION

- 15-501. Maximum limits generally.
- 15-502. School zone speed limits.
- 15-503. Maximum limits on specific streets--twenty-five miles per hour.
- 15-504. Maximum limits on specific streets--thirty miles per hour.
- 15-505. Maximum limits on specific streets--thirty-five miles per hour.
- 15-506. Maximum limits on specific streets--forty miles per hour.
- 15-507. Maximum limits on specific streets--forty-five miles per hour.
- 15-508. Maximum limits on specific streets--fifty miles per hour.
- 15-509. Maximum limits on specific streets--fifty-five miles per hour.
- 15-510. Minimum speed.
- 15-511. Speed limit signs.
- 15-512. Reduction of speed limits during periods of street construction or improvement.
- 15-513. Lower speed limits allowed.
- 15-514. Maximum speed limits on specific streets fifteen miles per hour.

15-501. <u>Maximum limits generally</u>. Except as otherwise provided in this chapter, all roads, streets and lanes open to public travel in the city are hereby zoned for a maximum speed limit of twenty-five (25) miles per hour and it shall be unlawful for any person to operate any vehicle at a speed in excess of such limit. (1969 Code, § 24-156)

15-502. <u>School zone speed limits</u>. (1) Pursuant to <u>Tennessee Code</u> <u>Annotated</u>, § 55-8-152(d)(1)(A), the city manager is hereby authorized to establish special school speed limit zones upon any public roadway, except for controlled access highways, provided the following conditions are met:

(a) The special school speed limit shall be based upon an engineering investigation.

(b) The special school speed limit shall not be less than fifteen (15) miles per hour.

(c) The special school speed limit shall only be enforced when proper signs are posted with a warning flasher or flashers in operation and only when children are actually present.

It shall be unlawful for any person to violate any such special school speed limit enacted and in effect in accordance with this subsection.

(2) When the city has not established a special school speed limit pursuant to subsection (1) above, the speed limit for the school zone shall be fifteen (15) miles per hour. It shall be unlawful for any person to operate any vehicle at a speed in excess of fifteen (15) miles per hour when passing a school Change 5, June 11, 2018

during recess, or while children are going to or leaving school during its opening or closing hours. For school zone speed limit signs equipped with warning flashers, such speed limit shall be in effect and subject to enforcement only while flashers are in operation. For school zone speed limit signs that are not equipped with warning flashers, such speed limit shall be in effect and subject to enforcement for a period of ninety (90) minutes before the opening hour of the school and for a period of ninety (90) minutes after the closing hour of the school.

(3) For speeding violations occurring during school zone speed limits, the city shall not defer imposition of judgment or allow the defendant to enter into a diversion program, including but not limited to a driver education training course, that would prevent such defendant's conviction for the violation from appearing on the person's driving record with the Tennessee Department of Safety. (1969 Code, § 24-157, as replaced by Ord. #4-07, April 2007, and amended by Ord. #08-2014, Aug. 2014)

15-503. <u>Maximum limits on specific streets--twenty-five miles per</u> <u>hour</u>. A maximum speed limit of twenty-five (25) miles per hour is hereby established on the following streets and roads, or parts thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess thereof:

- (1) Pumphouse Road for its entire length.
- (2) Bulls Bluff Road for its entire length. (1969 Code, § 24-157.1)

15-504. <u>Maximum limits on specific streets--thirty miles per hour</u>. A maximum speed limit of thirty (30) miles per hour is hereby established on the following streets and roads, or parts thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess thereof:

Commerce Park Drive for its entire length. (1969 Code, § 24-157.2)

15-505. <u>Maximum limits on specific streets--thirty-five miles per</u> <u>hour</u>. A maximum speed limit of thirty-five (35) miles per hour is hereby established on the following streets or portions thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess of such limit:

(1) Blair Road for its entire length between Oak Ridge Turnpike and the north city limit boundary.

(2) Tulsa Road for its entire length.

(3) Lafayette Drive from Oak Ridge Turnpike to a point three hundred (300) feet south of Gettysburg Avenue.

(4) Oak Ridge Turnpike from a point one thousand three hundred feet (1,300') west of Illinois Avenue to a point three hundred feet (300') east of Georgia Avenue.

(5) ORAU Way for its entire length.

(6) Rutgers Avenue between Oak Ridge Turnpike and South Illinois Avenue.

(7) Tulane Avenue between South Illinois Avenue and Oak Ridge Turnpike.

(8) Tuskeegee Drive between Benedict Avenue and South Illinois Avenue.

(9) Fairbanks Road between Oak Ridge Turnpike and Emory Valley Road.

(10) Laboratory Road for its entire length.

(11) East Tulsa Road for its entire length.

(12) East Division Road for its entire length.

(13) Gum Hollow Road from the Oak Ridge Turnpike to a point eight hundred fifty (850) feet north of the centerline of Glassboro Drive.

(14) Briarcliff Avenue between Laboratory Road and Fairbanks Road. (1969 Code, § 24-158, as amended by Ord. #5-98, Feb. 1998, Ord. #29-08, Sept. 2008, and Ord. #21-10, Dec. 2010)

15-506. <u>Maximum limits on specific streets--forty miles per hour</u>. A maximum speed limit of forty (40) miles per hour is hereby established on the following streets or portions thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess of such limit:

(1) South Illinois Avenue from Oak Ridge Turnpike to Lafayette Drive.

(2) North Illinois Avenue for its entire length between the Oak Ridge Turnpike and the north city limit line.

(3) Emory Valley Road from a point one hundred fifty (150) feet west of the western entrance to Dana Drive westward to Lafayette Drive.

(4) Melton Lake Drive from a point thirteen hundred and forty (1,340) feet north of Rivers Run Boulevard south to Edgemore Road (State Route 170).

(5) Oak Ridge Turnpike from a point one thousand three hundred (1,300) feet west of Illinois Avenue to a point seven hundred (700) feet west of Jefferson Avenue. (1969 Code, § 24-158.1, as amended by Ord. #6-07, May 2007, and Ord. #21-10, Dec. 2010)

15-507. <u>Maximum limits on specific streets--forty-five miles per</u> <u>hour</u>. A maximum speed limit of forty-five (45) miles per hour is hereby established on the following streets or portions thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess of such limit:

(1) Bethel Valley Road beginning at Edgemoor Road to a point six thousand (6,000) feet west of Scarboro Road, and from a point twelve hundred (1200) feet west of the Roane-Anderson County line to White Wing Road (SR-95).

(2) Emory Valley Road from a point one hundred fifty (150) feet west of the western entrance to Dana Drive eastward to Melton Lake Drive.

(3) Lafayette Drive from South Illinois Avenue to a point three hundred (300) feet south of Gettysburg Avenue.

(4) Oak Ridge Turnpike between the L & N Railroad underpass and a point three hundred (300) feet east of Georgia Avenue; and from a point three hundred eighty (380) feet west of Oklahoma Avenue to a point two hundred (200) feet west of the west Rarity Oaks Parkway access; and from a point two thousand eight hundred (2,800) feet west of Blair Road to a point eight thousand (8,000) feet west of Blair Road.

(5) Scarboro Road, for its entire length from South Illinois Avenue to Bethel Valley Road.

(6) Melton Lake Drive from Oak Ridge Turnpike (State Route 95) south to a point thirteen hundred and forty (1,340) feet north of Rivers Run Boulevard.

(7) South Illinois Avenue from its intersection with Lafayette Drive to 550 feet south of its intersection with Union Valley Road.

(8) Bear Creek Road, from Scarboro Road to a point 2.4 miles west. (1969 Code, § 24-159, as amended by Ord. #6-03, Jan. 2003, Ord. #23-03, Dec. 2003, Ord. #6-07, May 2007, Ord. #12-09, July 2009, and Ord. #21-10, Dec. 2010)

15-508. <u>Maximum limits on specific streets--fifty miles per hour</u>. A maximum speed limit of fifty (50) miles per hour is hereby established on the following streets or portions thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess of such limits:

(1) South Illinois Avenue beginning five hundred fifty (550) feet south of its intersection with Union Valley Road to a point three thousand five hundred eighty (3,580) feet south of its intersection with Union Valley Road.

(2) Oak Ridge Turnpike from a point seven hundred (700) feet west of Jefferson Avenue to a point three hundred eighty (380) feet west of Oklahoma Avenue. (Ord. #23-03, Dec. 2003, as amended by Ord. #21-10, Dec. 2010)

15-509. <u>Maximum limits on specific streets--fifty-five miles per</u> <u>hour</u>. A maximum speed limit of fifty-five (55) miles per hour is hereby established on the following streets or portions thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess of such limit:

(1) Edgemoor Road, from a point five hundred (500) feet east of Solway Bridge east to the city limits.

(2) Bear Creek Road, from the Oak Ridge Turnpike at Gallaher Bridge to a point two and four tenths (2.4) miles west of Scarboro Road.

(3) Bethel Valley Road from a point six thousand (6,000) feet west of Scarboro Road to a point twelve hundred (1,200) feet west of the Roane-Anderson County line.

(4) Oak Ridge Turnpike from State Route 61 to the L & N Railroad underpass; and from a point two hundred (200) feet west of the west Rarity Oaks Parkway access to a point two thousand eight hundred (2,800) feet west of Blair Road; and from a point eight thousand (8,000) feet west of Blair Road to Bear Creek Road at Gallaher Bridge.

(5) White Wing Road from the Oak Ridge Turnpike to White Wing Bridge.

(6) South Illinois Avenue beginning 3,580 feet south of its intersection with Union Valley Road to the south city limit line. (1969 Code, § 24-160, as amended by Ord. #23-03, Dec. 2003, and Ord. #12-09, July 2009)

15-510. <u>Minimum speed</u>. No person shall drive a vehicle upon any street at such a slow speed as to impede the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operations or in compliance with law. (1969 Code, § 24-163)

15-511. <u>Speed limit signs</u>. Except for roads, streets and lanes open to public travel with a twenty-five (25) mile per hour maximum speed limit as set forth in § 15-501, the city manager shall cause to be erected appropriate signs giving notice of the maximum speed limits on roads, streets and lanes open for public travel and no such limit shall be enforced unless such signs are so erected and in place at the time of any alleged violation. (1969 Code, § 24-164, as amended by Ord. #4-07, April 2007 and replaced by Ord. #13-07, July 2007)

15-512. <u>Reduction of speed limits during periods of street</u> <u>construction or improvement</u>. The city manager is authorized to reduce speed limits for a period not to exceed three (3) months upon or in the immediate vicinity of any street within the city during periods of construction or improvements to such streets. In such event, the city manager shall file with the city clerk a notice of reduction of speed limit which shall include the maximum allowable reduced speed and shall identify the portion of such street or streets to which the reduced limits apply at which time the reduced speed limit shall become effective. The city manager shall notify council of such reduction at the first regularly scheduled council meeting thereafter. The city council may by resolution extend the period of time for the reduced speed limit past three months for such length of time it deems necessary. The city manager shall cause to be erected appropriate signs to give notice of the reduced speed limit. (1969 Code, § 24-165)

15-513. <u>Lower speed limits allowed</u>. When design speeds or plans for a road, street and/or lane open to public travel necessitate a speed limit lower than the general maximum speed limit of twenty-five (25) miles per hour as set forth in § 15-501, the city manager may designate a lower speed limit on such road, street or lane and shall cause to be erected an appropriate sign giving notice of the maximum speed limit for such road, street or lane. (as added by Ord. #13-07, July 2007)

15-514. <u>Maximum speed limits on specific streets – fifteen miles</u> <u>per hour</u>. A maximum speed limit of fifteen (15) miles per hour is hereby

established on the following streets and roads, or parts thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess thereof:

(1) Tuskegee Drive beginning at Wiltshire Drive and extending to a point the lies 0.57 miles west of TeeJay Drive. (as added by Ord. #2-10, Feb. 2010)

CHAPTER 6

STOPPING, STANDING AND PARKING

SECTION

- 15-601. Equal rights to parking spaces for motorized vehicles, exceptions.
- 15-602. On main-traveled portion of street.
- 15-603. Prohibited in specified places.
- 15-604. Unattended vehicles.
- 15-605. Method of parking.
- 15-606. Prohibited or limited parking on specific streets.
- 15-607. Removal of vehicles obstructing traffic.
- 15-608. Prohibited parking of nonmotorized vehicles.
- 15-609. Prohibited parking of any motorized or nonmotorized vehicle for sale on city streets or rights-of-way.
- 15-610. Reserved parking for disabled persons.
- 15-611. Loading and unloading zones.
- 15-612. Public endangerment or emergency conditions.
- 15-613. Emergency parking signs.
- 15-614. Exemption.
- 15-615. Registered owner presumption; owner responsibility.
- 15-616. Parking of junked vehicles in on-street parking spaces prohibited.
- 15-617. Parking of recreational vehicles and utility trailers in marked and unmarked on-street parking spaces.

15-601. Equal rights to parking spaces for motorized vehicles,

exceptions. Unless specifically designated by a city-authorized sign, all persons parking motorized vehicles (except recreational vehicles) have equal rights and privileges to any parking space on all public streets. The parking of recreational vehicles in any parking space on public streets is governed by City Code § 15-617. (1969 Code, § 24-174, as replaced by Ord. #03-2012, April 2012)

15-602. On main-traveled portion of street. (1) No person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled part of a street, when it is practicable to stop, park or so leave such vehicle off such part of the street, and in every event, an unobstructed width of the street opposite a standing vehicle of not less than eighteen (18) feet shall be left for the free passage of other vehicles; provided that streets of twenty-two (22) feet in width or less accepted by the city prior to July 1, 1991, must provide a minimum width of sixteen (16) feet for free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of two hundred (200) feet in each direction upon such street.

(2) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a street in such manner

and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

(3) The provisions of this section shall not apply to the driver of any vehicle operating as a carrier of passengers for hire and holding a certificate of convenience and necessity or interstate permit issued by the Tennessee Public Service Commission or any local regulatory transit authority of Tennessee authorizing the operation of such vehicle upon the roads, streets or highways in Tennessee, while taking passengers on such unobstructed lane of travel of the street opposite such standing vehicle shall be left for free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of two hundred (200) feet in either direction upon the street. (1969 Code, § 24-175)

15-603. <u>Prohibited in specified places</u>. (1) No person shall stop, stand or park a vehicle within the corporate limits of the city, nor shall any owner allow a vehicle to be parked within the city, except in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

(a) On any sidewalk or pedestrian walking area located within the right-of-way.

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

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

(d) On a crosswalk.

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

(f) Within thirty (30) feet of flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(g) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a legally constituted traffic authority indicates a different length by signs or markings.

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

(i) Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station, within seventy-five (75) feet of said entrance when property sign posted.

(j) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

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

(l) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.

(m) At any place where official signs prohibit stopping, standing or parking.

(n) At any place where official yellow curbings, lines or markings are painted or exhibited on a city road, public street or public parking lot.

(o) In any approved fire lane where the curb has been painted yellow and where approved signs or markings indicate a fire lane. This includes officially designated fire lanes on both public and private property.

(p) On any city or state right-of-way between the roadway curb or edge of pavement, and the edge of the right-of-way.

(q) On private property, other than parking lots or other designated parking areas without the express consent of an owner, tenant, occupant, or other person lawfully entitled to possession of the property.

(r) In a public or private parking lot or other designated parking area, after the driver or registered owner of the vehicle has been notified to remove the vehicle by an owner or authorized agent of the owner of the property on which the parking lot or area is located.

(s) In a public or private parking lot or other designated parking area, for more than twenty-four (24) hours without the express permission of an owner, or authorized agent of the owner of the property on which the parking lot or area is located.

(t) On a public street for the purpose of repair or servicing, except to make repairs necessitated by emergency.

(u) On or over the curb of any public street.

(v) Outside of any marked parking space lines on any public street. This does not preclude the ability to park in unmarked parking spaces provided such parking is allowed, however, it does require a vehicle parked in marked on-street parking to be contained entirely within the marked space (white lines and curbing).

(2) The requirements of this section apply to the entire portion of the vehicle, including but not limited to side mirrors and tailgates, and to any items placed on said vehicle that are not completely contained within said vehicle, including but limited to protruding lumber or other materials. If any portion of the vehicle or any items placed on said vehicle are within any of the prohibited parking areas set forth in subsection (1) above, the vehicle is parked unlawfully. For example, if a vehicle's side mirrors overhang onto the sidewalk or if materials protrude from the vehicle and overhang the marked parking lines, the vehicle is parked unlawfully. (1969 Code, § 24-176, as amended by Ord. #03-2012, April 2012)

15-604. <u>Unattended vehicle</u>. No person driving or in charge of a motor vehicle shall permit it to stand unattended on any street without first stopping the motor, removing the ignition key, and effectively setting the brake thereon

and, when standing upon any grade, turning the front wheels of such vehicle toward the nearest curb or gutter of the street. (1969 Code, § 24-177)

15-605. <u>Method of parking</u>. (1) Every vehicle parked or standing unattended upon any two-way street, road, avenue or other public way within the city shall be so parked or stopped in the direction of the flow of traffic with the right hand wheels parallel to and within twelve inches (12") street side of the right hand curb or edge of the roadway. Every vehicle parked or standing unattended upon any one-way street, road, avenue or other public way within the city shall be so parked or stopped in the direction of the flow of traffic with its right hand wheels parallel to and within twelve inches (12") street side of the right hand curb or edge of the roadway, or its left hand wheels parallel to and within twelve inches (12") street side of the left hand curb or edge of the roadway, whichever is applicable. Where parking stalls or spaces are marked or designated as such on the curbs or pavement, vehicles shall be parked or stopped only within such designated stalls or spaces with the vehicle headed in the direction of the flow of traffic or an angle indicated by appropriate markings.

(2) The city manager is hereby authorized to allow parking against the traffic flow on designated streets if, in the determination of the city manager, a greater traffic hazard is avoided by allowing parking against the flow of traffic. Such designation shall be in writing with one copy filed with the chief of police and one copy filed in the office of the city clerk.

(3) The city manager is hereby authorized to designate portions of rights-of-way for parking if in the determination of the city manager there is a shortage of available on- and off-street parking and the allowance off such parking will not constitute a traffic safety hazard. The city manager can impose such conditions on parking in such areas as reasonable to protect the right-of-way and to ensure the traffic safety. (1969 Code, § 24-178, as amended by Ord. #03-2012, April 2012)

15-606. <u>Prohibited or limited parking on specific streets</u>. The city manager is hereby authorized to designate streets or portions of streets where the parking of vehicles is prohibited or limited and to erect signs or other markings giving notice of such prohibition or limitation. It shall be unlawful for any person to park any vehicle in violation of any such sign or marking. (1969 Code, § 24-179)

15-607. <u>Removal of vehicles obstructing traffic</u>. If a vehicle obstructing traffic upon any street is unattended, the city manager is hereby authorized to provide for the removal of such vehicle to a garage or other place of safety at the expense of the owner. The owner shall be liable for the costs of towing and storing, notwithstanding that the vehicle was parked by another or that the vehicle was initially parked in a safe manner but subsequently became an obstruction or a hazard. (1969 Code, § 24-180)

15-608. <u>Prohibited parking of nonmotorized vehicles</u>. The city manager shall have the authority to prohibit the parking of nonmotorized vehicles upon the city's streets where limited parking is available upon such streets or where the parking of such vehicles would cause traffic hazard, congestion, and/or undue inconvenience to the operators of motor vehicles seeking places to park their vehicles. (1969 Code, § 24-181)

15-609. <u>Prohibited parking of any motorized or nonmotorized</u> <u>vehicle for sale on city streets or rights-of-way</u>. No person shall park any vehicle, boat, trailer, camper, or other motorized or nonmotorized vehicle upon any city street, right-of-way, or parking space, with any sign affixed thereto or any writing, marking, or other designation upon such vehicle indicating the vehicle is for sale. (1969 Code, § 24-182)

15-610. <u>Reserved parking for disabled persons</u>. (1) The city manager is hereby authorized to designate by the installation of appropriate signs, parking spaces for the exclusive use of disabled drivers in those publicly maintained areas where a significant demand for parking by such persons exists. This may include areas in residential and business, as well as publicly owned parking lots.

(2) Any merchant or owner of a privately-owned parking lot for use by the general public is hereby authorized to designate by the installation of appropriate signs, parking spaces for the exclusive use of disabled drivers.

(3) Where signs bearing the official wheelchair disabled symbol are erected designating reserved parking spaces for disabled drivers, no person except disabled drivers or qualified operators in the presence of and acting under the express direction of a disabled driver shall stand or park a vehicle in any such space, and provided further that only vehicles displaying approved license plates, or placards appropriately displayed on said vehicles shall park in such places. The official wheelchair symbol shall be displayed on a sign located between three (3) feet and six (6) feet from the ground. One sign will be provided for each parking space.

(4) Any violation of § 15-610 shall be punishable by a penalty of one hundred dollars (\$100.00). (1969 Code, § 24-183, as amended by Ord. #13-97, Aug. 1997)

15-611. <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 public place marked by the city as a loading zone. (1969 Code, § 24-184)

15-612. <u>Public endangerment or emergency conditions</u>. Upon conditions constituting a danger to the public health, welfare or safety, or when necessary to preserve the peace and order of the city, the city manager may

install temporary traffic control devices and/or remove obstructions from the public right-of-way. (1969 Code, § 24-185)

15-613. <u>Emergency parking signs</u>. Whenever any traffic congestion is likely to result from the holding of public or private assemblages, gatherings or functions, or when necessary to preserve public health, welfare or safety, the city manager is authorized to erect or post temporary signs indicating that the operation, parking or stopping of vehicles is prohibited. Such signs shall remain in place only during the existence of such emergency and shall be removed promptly thereafter.

When signs authorized by the provisions of this section are in place, no person shall operate, park or stop any vehicle contrary to the directions and provisions of such signs. (1969 Code, § 24-186)

15-614. <u>Exemption</u>. The provisions of this chapter regulating the parking or standing of vehicles shall not apply to a vehicle of a city, county or state, or public utility while necessarily in use for construction or repair work on a street or utilities located therein. (1969 Code, § 24-187)

15-615. <u>Registered owner presumption; owner responsibility</u>. In a prosecution of a vehicle owner charging a violation of a restriction of parking, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a presumption that the defendant was then the owner in fact and that the owner was the driver of the vehicle at the time of the violation. This presumption may be rebutted by proof that the vehicle was being used by another without the owner's consent. (1969 Code, § 24-188)

15-616. <u>Parking of junked vehicles in on-street parking spaces</u> <u>prohibited</u>. (1) No person shall park any junked vehicle¹ upon any on-street parking space.

(2) This section shall not apply to any junked vehicle which becomes disabled in such a manner and to such an extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position, provided however that such disabled vehicle be removed within forty-eight (48) hours. (Ord. #11-02, June 2002)

15-617. <u>Parking or recreational vehicles and utility trailers in</u> <u>marked and unmarked on-street parking spaces</u>. (1) It is unlawful for any person to park or store any recreational vehicle or utility trailer within marked or unmarked on-street parking on any public street. It is also unlawful for the

¹Municipal code reference

Junked vehicles: title 13, chapter 3.

registered owner of a recreational vehicle or utility trailer to allow another person to park or store such vehicle or trailer within marked or unmarked onstreet parking on any public street.

(2) Notwithstanding any provisions to the contrary, an operational recreational vehicle or utility trailer may be temporarily legally parked or stored within marked or unmarked on-street parking on any public street for a period not to exceed seven (7) consecutive days for the purpose of loading, unloading, trip preparation, or minor, routine maintenance and repair. However, vehicles temporarily parked in accordance with this section may not be relocated to another on-street location after the expiration of the allowed temporary parking period, and at no time shall any un-mounted camper enclosure, personal water craft carrier, or boat not mounted on a utility trailer be parked or stored within any designated on-street parking space.

(3) There are no "grandfathered" rights associated with this section.

(4) There shall be a thirty (30) day grace period from the effective date of the ordinance comprising this section to allow city staff time to educate the public on the requirements of the section. (as added by Ord. #01-2012, March 2012)

CHAPTER 7

BICYCLES

SECTION

- 15-701. Application of chapter.
- 15-702. Application of traffic regulations to riders.
- 15-703. Use of permanent seat required.
- 15-704. Carrying excess passengers prohibited.
- 15-705. Riders carrying articles.
- 15-706. To be ridden on right side of roadway.
- 15-707. Riding more than two abreast.
- 15-708. Riding on roadways prohibited when paths provided.
- 15-709. Clinging to vehicles.
- 15-710. Lights.
- 15-711. Bell or other warning device.
- 15-712. Bicycle brakes.
- 15-713. Child bicycle safety rules and regulations.

15-701. <u>Application of chapter</u>. The provisions of this chapter shall apply whenever a bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein. (1969 Code, § 24-190)

15-702. <u>Application of traffic regulations to riders</u>. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations set out in this chapter, and except as to those provisions of this chapter which, by their nature, can have no application. (1969 Code, § 24-191)

15-703. <u>Use of permanent seat required</u>. A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto. (1969 Code, § 24-192)

15-704. <u>Carrying excess passengers prohibited</u>. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (1969 Code, § 24-193)

15-705. <u>Riders carrying articles</u>. No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one (1) hand upon the handlebars. (1969 Code, § 24-194)

15-706. <u>To be ridden on right side of roadway</u>. Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. (1969 Code, § 24-195)

15-707. <u>**Riding more than two abreast**</u>. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast, except on paths or parts of roadways set aside for the exclusive use of bicycles. (1969 Code, § 24-196)

15-708. <u>Riding on roadways prohibited when paths provided</u>. Wherever a useable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. (1969 Code, § 24-197)

15-709. <u>Clinging to vehicles</u>. No person riding upon any bicycle shall attach the same or himself or herself to any vehicle upon a roadway. (1969 Code, § 24-198)

15-710. <u>Lights</u>. Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type approved by the state department of safety, which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector. (1969 Code, \S 24-199)

15-711. <u>Bell or other warning device</u>. No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle. (1969 Code, § 24-200)

15-712. <u>Bicycle brakes</u>.¹ Every bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle within twenty-five (25) feet from a speed of ten miles per hour (10 mph) on dry, level, clean pavement. (1969 Code, § 24-201, as replaced by Ord. #21-06, Dec. 2006)

¹State law reference

Tennessee Code Annotated, § 55-8-177(b).

15-713. <u>Child bicycle safety rules and regulations</u>.¹ (1) With regard to any bicycle operated over any public roadway or sidewalk, it is unlawful:

(a) For any person under sixteen (16) years of age to operate or be a passenger on a bicycle unless at all times when so engaged such person wears a protective bicycle helmet of good fit fastened securely upon the head with the straps of the helmet;

(b) For any person to be a passenger on a bicycle unless, with respect to any person who weighs fewer than forty pounds (40 lbs.), or is less than forty inches (40") in height, the person can be and is properly seated in and adequately secured to a restraining seat;

(c) For any parent or legal guardian of a person below twelve (12) years of age to knowingly permit such person to operate or be a passenger on a bicycle in violation of subsection (1)(a) or (1)(b); and

(d) To rent or lease any bicycle to or for the use of any person under sixteen (16) years of age unless:

(i) The person is in possession of a protective bicycle helmet of good fit at the time of such rental or lease; or

(ii) The rental or lease includes a protective bicycle helmet of good fit, and the person intends to wear the helmet, as required by subsection (1), at all times while operating or being a passenger on the bicycle.

(2) Except as provided in subsection (3), any adult person violating any requirements set forth in this section commits a violation and shall be assessed a civil penalty of two dollars (\$2.00) and court costs.

(3) Upon commission of the first offense within a twelve-month period under subsection (1)(c), it shall be a defense that the accused has since the date of the violation purchased or provided a protective bicycle helmet or a restraining seat, and uses and intends to use or causes to be used or intends to cause to be used the same as the law requires.

(4) A law enforcement officer observing any violation of this section shall issue a warning to the violator for the first offense and a citation to the violator for the second or subsequent offense, but shall not arrest or take into custody any person solely for a violation of this section.

(5) For purposes of this section, the following terms have the following meanings:

(a) "Protective bicycle helmet" means a piece of headgear which meets or exceeds the impact standards for protective bicycle helmets set by the American National Standards Institute (ANSI) or the Snell

¹State law reference

Child Bicycle Safety Act, <u>Tennessee Code Annotated</u>, §§ 55-52-101 through 55-52-106.

Memorial Foundation, or which is otherwise approved by the commissioner of safety.

(b) "Restraining seat" means a seat separate from the saddle seat of the operator of the bicycle that is fastened securely to the frame of the bicycle and is adequately equipped to restrain the passenger in such seat and protect such passenger from the moving parts of the bicycle. (as added by Ord. #21-06, Dec. 2006)

CHAPTER 8

PEDESTRIANS

SECTION

- 15-801. Application of chapter.
- 15-802. Right-of-way in crosswalks.
- 15-803. When use of marked crosswalks required.
- 15-804. Use of right half of crosswalks.
- 15-805. Crossing at other than crosswalks.
- 15-806. Pedestrian tunnels or overhead crossings.
- 15-807. Walking on roadways.
- 15-808. Soliciting rides or employment.
- 15-809. Soliciting the watching or guarding of parked vehicles.
- 15-810. Duty of drivers with regard to pedestrians.
- 15-811. Special provision for pedestrians guided by dog or carrying white cane.

15-801. <u>Application of chapter</u>. Pedestrians shall be subject to trafficcontrol signals at intersections as provided in this chapter and at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter. (1969 Code, § 24-212)

15-802. <u>**Right-of-way in crosswalks**</u>. (1) (a) Unless in a posted school zone when school zone speed limits are in operation and subject to enforcement per city code §15-502, when traffic-control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) When in a posted school zone during the times school zone speed limits are in effect and subject to enforcement per city code §15-502, the driver of a vehicle shall stop to yield the right-of-way to a pedestrian crossing the roadway within a marked crosswalk or at an intersection with no marked crosswalk. The driver shall remain stopped until the pedestrian has crossed the roadway on which the vehicle is stopped.

(2) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

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(3) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

(4) Subsection (1) above does not apply under the conditions stated in city code § 15-806. (1969 Code, § 24-213, as replaced by Ord. #09-2014, Aug. 2014)

15-803. <u>When use of marked crosswalks required</u>. Between adjacent intersections at which traffic-control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk. (1969 Code, § 24-214)

15-804. Use of right half of crosswalk. Pedestrians shall move, whenever practicable, upon the right half of crosswalks. (1969 Code, § 24-215)

15-805. <u>Crossing at other than crosswalks</u>. Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway. (1969 Code, § 24-216)

15-806. <u>Pedestrian tunnels or overhead crossings</u>. Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway. (1969 Code, § 24-217)

15-807. <u>Walking on roadways</u>. (1) Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(2) Where sidewalks are not provided, any pedestrian walking along and upon a street shall, when practicable, walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. (1969 Code, § 24-218)

15-808. <u>Soliciting rides or employment</u>. No person shall stand in the public right-of-way for the purpose of soliciting a ride or employment from the occupant of any vehicle. (1969 Code, § 24-219)

15-809. <u>Soliciting the watching or guarding of parked vehicles</u>. No person shall stand on or in proximity to a street for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street. (1969 Code, § 24-220)

15-810. <u>Duty of drivers with regard to pedestrians</u>. Notwithstanding the provisions of this chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway. (1969 Code, § 24-221)

15-811. <u>Special provision for pedestrians guided by dog or</u> <u>carrying white cane</u>. (1) No person, unless totally or partially blind or otherwise incapacitated, while on any public street or thoroughfare, shall carry in any raised or extended position any cane or similar walking stick colored white or white tipped with red.

(2) Whenever any pedestrian guided by a guide dog or carrying in any raised or extended position a cane or similar stick white in color or white tipped with red shall undertake to cross any public street or thoroughfare, the driver of each and every vehicle approaching such pedestrian shall bring such vehicle to a complete stop and, before proceeding, shall take all precautions necessary to avoid injuring such pedestrian. Nothing in this section shall be construed as making any person totally or partially blind or otherwise incapacitated guilty of contributory negligence in undertaking to cross any street or thoroughfare without being guided by a trained dog or carrying a cane or stick of the type herein mentioned. (1969 Code, § 24-222)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. SIGNS IN RIGHTS-OF-WAY.
- 3. LINES OF SIGHT AT INTERSECTIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Definitions.
- 16-102. Permit to construct or repair sidewalk, driveway, curb or gutter.
- 16-103. Permit required for street cuts; application for permit.
- 16-104. Bond required for street cuts.
- 16-105. Plans and specifications for street cuts.
- 16-106. Installation of driveway approaches by city.
- 16-107. Median cuts by city.
- 16-108. Removal of building materials from gutters.
- 16-109. Use of streets for selling goods, wares and merchandise from vehicles.
- 16-110. Owners and occupants of abutting property to keep sidewalks free of litter.
- 16-111. Development and maintenance--residential streets.
- 16-112. Development and maintenance--collector streets and thoroughfares.
- 16-113. Development and maintenance--sidewalks.
- 16-114. Development and maintenance--damages, liability.

16-101. <u>Definitions</u>. The following definitions shall apply in the construction of this chapter, unless indicated to the contrary:

(1) "Curb." The word "curb" shall apply to that construction parallel to and adjoining the edge of the paving of the roadway surface of the street definitely marking the limits of that portion of the street to be used by vehicular traffic.

(2) "Driveway." The word "driveway" shall apply to that portion of the street lying between the curbline of the street and the property line of the street used for ingress and egress by vehicles to property adjoining the street.

¹Municipal code reference

Motor vehicles, traffic, and parking: title 15.

(3) "Gutter." The word "gutter" shall apply to that construction adjoining the curb and forming a part of the street surface used by vehicles and the primary function of which is to provide surface drainage along the street.

(4) "Sidewalk." The word "sidewalk" shall apply to that portion of the street designated for pedestrian use.

(5) "Street." The word "street" shall apply to all public thoroughfares within the corporate boundary limits of the city, such as alleys, avenues, boulevards, highways and streets, and shall include all that portion of the public way from property line to property line dedicated to the public use, and includes sidewalks, driveways, grassplots, curbs, and that portion of the street used by vehicles. (1969 Code, § 20-1)

16-102. <u>Permit to construct or repair sidewalk, driveway, curb or</u> <u>gutter</u>. No person shall construct any sidewalk, driveway, curb, or gutter or change or repair the same on the streets of the city, without having first applied for and received a permit from the city manager authorizing such construction, change or repair. The application for the permit shall adequately describe the proposed construction, change or repair and the permit issued by the city manager shall also designate the extent to which and the conditions under which such construction, change or repair is authorized. No construction, barricades or driveways, temporary or permanent, shall be placed in the gutter or on the sidewalk, except as may be permitted by the city manager by the issuance of the permit provided for herein. (1969 Code, § 20-2)

16-103. <u>Permit required for street cuts</u>; <u>application for permit</u>. It shall be unlawful for any person to dig up the streets of the city for the purpose of connecting gas or water or other pipes under the street or for any other purpose, without first obtaining a permit so to do from the city manager. Application for such a permit shall be filed with the city manager and shall state the time and place where such excavation or opening is to be made and the character and purpose of the excavation or opening. (1969 Code, § 20-3)

16-104. <u>Bond required for street cuts</u>. Before issuing a permit required by § 16-103, the city manager shall require the person applying therefor to furnish either a cash bond or a corporate surety bond in the amount of the total cost of the work to be done, conditioned upon the completion of the work for which a permit is requested in accordance with the plans and specifications prescribed by the city manager or his or her authorized representative for the construction of such work. (1969 Code, § 20-4)

16-105. <u>Plans and specifications for street cuts</u>. All street openings and excavations shall be done according to the plans and specifications prescribed by the city manager or his or her authorized representative for all such work, which plans and specifications shall be on file in the office of the city

manager or his or her authorized representative. Such plans and specifications shall also accompany each permit issued under this chapter authorizing street openings or excavations. Refusal to construct any street openings, excavations or alterations in accordance with such plans and specifications shall be grounds for refusal of the permit required by this chapter. (1969 Code, § 20-5)

16-106. <u>Installation of driveway approaches by city</u>. Upon request of any owner or occupier of premises adjacent to a street, the city manager is authorized to use city forces and equipment in the removal of curbs and the installation of the approach across the gutter for entry to a driveway, for fee to be paid by the person requesting the work, as established by the city council. (1969 Code, § 20-6)

16-107. <u>Median cuts by city</u>. When a median cut has been authorized as provided in this chapter, the city manager is authorized to use city forces and equipment in making such cut, when requested by any owner or occupier of premises adjacent to the streets where such cut is being made, or when requested by the person who has obtained the authorization for the median cut, and the city manager will perform such work and recover the costs thereof from the person requesting and receiving the services. (1969 Code, § 20-7)

16-108. <u>Removal of building materials from gutters</u>. In the event that any person performing or having work done under a permit issued under this chapter places, in the gutters of the streets, any concrete, asphalt or other road building materials in such a manner as to interfere with the primary function of such gutter in providing surface drainage along the street, it shall be the duty of the city manager to notify the person responsible therefor, in writing, that the same must be removed within ten (10) days and that upon failure so to do, the city manager will bring about the removal of such obstruction and assess the total cost of such removal to the person responsible for such obstruction. (1969 Code, § 20-8)

16-109. Use of streets for selling goods, wares and merchandise from vehicles. It shall be unlawful for any person to use and maintain any wagon, automotive vehicle or any other type of conveyance on any street or thoroughfare in the city as a base of operation for making direct sales and delivering goods, wares or merchandise to purchasers. Nothing herein contained shall be construed as preventing the use of such vehicles on the streets for the purpose of delivering merchandise to purchasers or prospective purchasers, if such sale or delivery is not made within the street or thoroughfare. (1969 Code, § 20-9)

16-110. <u>Owners and occupants of abutting property to keep</u> sidewalks free of litter. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. (1969 Code, § 20-10)

16-111. Development and maintenance--residential streets.

(1) <u>New streets</u>. Development of new residential streets in the city shall be according to subdivision requirements. The city shall maintain such streets by resurfacing as needed at no direct cost to abutting property owners.

(2) <u>Existing streets</u>. Existing residential streets shall be maintained by the city with resurfacing and stabilizing of shoulders as needed at no direct cost to abutting property owners. When the public necessity indicates, as determined by city council upon recommendation of the Oak Ridge Regional Planning Commission, improvement of the street will be made by the city with the construction of curbs and gutters, storm drainage and the proper width and with correction of lines-of-sight at intersections, all as indicated in the subdivision regulations according to the following:

(a) The city shall pay the entire cost of correcting vertical curves to improve lines-of-sight.

(b) The costs for curbs and gutters, storm drainage, widening of the street to the prescribed width, and resurfacing are to be shared by the city and the benefitted abutting property owners. The portion of costs to be borne by benefitted abutting property owners shall not exceed fifty percent (50%) of the total costs but this may be decreased by the instrument establishing the assessment district. Within the limits above, the proportion of costs to be borne by each benefitted abutting property owner is to be determined in the manner provided by the state statutes. (1969 Code, § 20-11)

16-112. <u>Development and maintenance--collector streets and</u> <u>thoroughfares</u>. (1) <u>New streets</u>. The necessary rights-of-way for new collector streets and thoroughfares shall be dedicated by the developer to the city according to the major thoroughfare plan of the city. Development of such streets shall be by the contractor or developer to residential standards according to subdivision requirements with participation by the city for development in excess of a residential street. The city shall maintain such streets with resurfacing as needed at no direct cost to abutting property owners.

(2) <u>Existing streets</u>. The city shall provide routine maintenance and resurfacing as needed on existing collector streets and thoroughfares at no direct cost to abutting property owners. When the public necessity indicates, as determined by city council upon recommendation by the Oak Ridge Regional Planning Commission, improvement of the street will be made by the city with the construction of curbs and gutters, storm drainage and the proper width and with correction of lines-of-sight at intersections, all as indicated in the

subdivision regulations and major thoroughfare plan and in accordance with § 16-111 above. (1969 Code, § 20-12)

16-113. <u>Development and maintenance--sidewalks</u>. (1) <u>Areas</u> <u>adjacent to community-serving facilities</u>. New sidewalks may be required in areas adjacent to community-serving facilities. The necessity for and exact location of these walks are to be determined by city council upon recommendation of the Oak Ridge Regional Planning Commission. The cost of these sidewalks is to be borne by the city.

(2) <u>Other areas</u>. New sidewalks in areas other than around community-serving facilities are to be provided for through appropriate proceedings for an assessment district. The cost of these sidewalks is to be borne on a fifty-fifty basis between the city and the property owner, with the city to bear fifty percent (50%) thereof, and fifty percent (50%) charged to any adjoining property owners in the manner provided by the state statutes.

(3) <u>Existing sidewalks</u>. The city shall maintain existing sidewalks with resurfacing for replacement as needed at no direct cost to abutting property owners. (1969 Code, § 20-13)

16-114. <u>Development and maintenance--damages</u>, <u>liability</u>. Notwithstanding §§ 16-111, 16-112, and 16-113 above, the city shall not be liable for, or pay the cost of, correcting damages to streets and sidewalks where such damages are directly attributable to an abutting property owner, a developer or other contractor. Repair and maintenance under these circumstances shall be at the expense of the party of parties causing the damages. (1969 Code, § 20-14)

CHAPTER 2

SIGNS IN RIGHTS-OF-WAY

SECTION

16-201. Definition.16-202. When permitted.16-203. Removal.

16-201. <u>Definition</u>. A "sign," within the meaning of this chapter, is any structure defined as a "sign" under the zoning code of the city. (1969 Code, § 20-21)

16-202. <u>When permitted</u>. (1) Except as otherwise provided herein, it shall be unlawful for any person to place, maintain or to continue the use of any sign within the public right-of-way of any road or street or other public way within the city. Approved signs erected in sign districts pursuant to permits issued under the provisions of the zoning code of the city will be permitted.

(2) Where the right-of-way reserved, excepted or granted to the city exceeds one hundred fifty (150) feet in width, the city manager, on application, may approve the erection of signs with the right-of-way, provided such approval shall not be granted for any sign within seventy-five (75) feet of the center line of such right-of-way.

(3) This section shall not apply to publicly owned signs such as trafficcontrol signs. (1969 Code, § 20-22)

16-203. <u>**Removal**</u>. The city manager is authorized and directed to remove any sign which is being maintained or continued in use in violation of this chapter; provided, however, that no sign shall be removed until the city manager has given the owner or the person having control of the same not less than ten (10) days' notice in writing of his or her intention to remove such sign. (1969 Code, § 20-23)

CHAPTER 3

LINES OF SIGHT AT INTERSECTIONS

SECTION

16-301. Definitions.

16-302. Designated.

16-303. Intersection is hazardous if safe line cannot be established.

16-304. Order to remove obstructions.

16-305. Removal of obstruction by city.

16-301. <u>Definitions</u>. For the purposes of this chapter, the following definitions shall apply:

(1) "Minor street." The term "minor street" means any street upon which the driver of a motor vehicle is required to come to a full stop by a stop sign or other similarly used device before entering the intersection.

(2) "Safe line of sight." A "safe line of sight" is defined as the field of unobstructed vision sufficient to observe clearly any object of a height of four (4) feet which is in any part of the traffic lane, the flow of which is approaching the intersection between the sighting position and the distance specified in § 16-302.

(3) "Traffic way." The term "traffic way" means the entire width between property lines (or boundary lines), of which any part is open to the use of the public for purposes of vehicular traffic as a matter of right or custom. (1969 Code, § 20-34)

16-302. <u>Designated</u>. The line of sight on the intersecting street shall be a distance measured in feet equal to the sum of eight (8) times the posted speed limit on the major street, measured to the left of a projection of the curbline nearest the sighting position on a minor street, and a distance in feet equal to the sum of ten (10) times the speed limit on the major street to the right of such projection. (1969 Code, § 20-35)

16-303. <u>Intersection is hazardous if safe line cannot be</u> <u>established</u>. It is hereby declared that if, at any intersection of two (2) streets, the minor of which from a height of fifty-four (54) inches above ground level, at a sighting position on the pavement eight (8) feet from the right-hand curb to a driver facing the intersection and eight (8) feet from the curbline of the intersecting street (or if either of these streets has no curb, from the edge of the traffic way), a safe line of sight both to his or her right and to his or her left for the driver of a vehicle stopped at that point cannot be established, such intersection shall constitute a hazardous intersection. (1969 Code, § 20-36)

16-304. <u>**Order to remove obstructions**</u>. The city manager shall have the authority, when hazardous intersections, as designated in this chapter, are

brought to his or her attention, to order the owners, or other persons in charge of the property on which weeds, flowers, trees, fences, outbuildings, earth-banks or other obstructions exist, other than dwelling houses or store buildings, to remove such obstructions within ten (10) days after receipt of such order. If, after a reasonable effort has been made to serve such order of removal, it is found impossible to do so, because the owner or other person in charge of the property has removed from the city, the city manager may mail the order by registered mail to the last known address of such owner or person in charge. After a lapse of twenty (20) days following such mailing, unless the order is returned as unclaimed, the required waiting period shall have expired. In the event that the order is returned by the postal authority as unclaimed, no further waiting period shall be required. (1969 Code, § 20-37)

16-305. <u>Removal of obstruction by city</u>. Upon the expiration of the waiting period required by § 16-304, the city manager may, if the order given pursuant to § 16-304 has not been complied with at that time, order the removal of the obstruction by employees of the public works department. The city shall charge the owner or other person in charge of the property involved for the cost of this service. (1969 Code, § 20-38)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. PRIVATE COLLECTORS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 17-101. Definitions.
- 17-102. Right of city to acquire and operate removal system.
- 17-103. Rules and regulations for operation and maintenance of removal system.
- 17-104. Rules, regulations and schedule of charges to be part of contract.
- 17-105. Refuse acceptable for collection.
- 17-106. Refuse unacceptable for collection.
- 17-107. Method of disposal by city and its contractor.
- 17-108. Containers generally.
- 17-109. Containers for ashes.
- 17-110. Preparation of bundles of rubbish for collection.
- 17-111. Disposal in city prohibited; exception.
- 17-112. Transportation into city by nonresidents for deposit in city prohibited.
- 17-113. Requirements for vehicles transporting refuse.
- 17-114. Deposit on private property generally.
- 17-115. [Deleted.]
- 17-116. [Deleted.]
- 17-117. [Deleted.]
- 17-118. Method of depositing in receptacles.
- 17-119. Unlawful use of city--owned receptacles.
- 17-120. Establishment, maintenance and use of city's refuse disposal facilities.
- 17-121. Scavenging at or removal of refuse from city disposal site.
- 17-122. Notice and correction of violations of chapter.
- 17-123. Presumption concerning litter bearing person's name.
- 17-124. Curbside recycling service and location.
- 17-125. Scavenging prohibited.
- 17-126. Curbside recycling exceptions; permanent mobility impairment.

¹Municipal code reference

Property maintenance regulations: title 13.

17-101. <u>Definitions</u>. The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Approved container" shall mean and include standard containers, special containers, and special waste receptacles, all of which must be maintained in a state of good repair.

(2) "Ashes" shall mean and include the waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.

(3) "Collector" shall mean and include any person, firm, or corporation that engages in the business of collecting, transporting, or disposing of any refuse within the city.

(4) "Garbage" shall mean and include all putrescible wastes, except sewage and body wastes, including vegetable and animal offal and carcasses of dead animals, but excluding recognizable industrial by-products, from all public and private residences and establishments.

(5) "Refuse" shall mean and include garbage, ashes and rubbish.

(6) "Rubbish" shall mean and include all nonputrescible waste materials, except ashes, from all public and private residences and establishments.

(7) "Special container" shall mean and include a dumpster-type container:

(a) Having a capacity of not over eight (8) cubic yards.

(b) So constructed that the container can be handled by the equipment used for collection.

(c) Having a tight-fitting cover or closure.

(d) Of watertight construction where garbage is to be stored.

(8) "Special waste receptacle" shall mean and include any storage container not defined in this section approved by the city manager which does not violate any of the provisions of this chapter.

(9) "Standard container" shall mean and include a watertight plastic or metal container with handles or bails, having a tight-fitting cover, weighing not over thirty-five (35) pounds when empty and not over one hundred (100) pounds when filled, and not more than thirty-two-gallon capacity. (1969 Code, § 19-1)

17-102. <u>**Right of city to acquire and operate removal system**</u>. The city shall have the right to own, equip, operate and maintain within the corporate limits of the city, either through its own forces or through a contractor, a refuse removal system for the purpose of providing refuse removal services for the use and benefit of its inhabitants and for the use and benefit of persons, firms and corporations within the territorial boundaries of the city. (1969 Code, § 19-2)

17-103. <u>Rules and regulations for operation and maintenance of</u> <u>removal system</u>. The city is hereby authorized to promulgate and establish rules and regulations governing the operation and maintenance of the refuse removal system. A copy of any such rules and regulations promulgated shall be kept on file in the city clerk's office. (1969 Code, § 19-3)

17-104. <u>Rules, regulations and schedule of charges to be part of</u> <u>contract</u>. Any rules and regulations promulgated under this chapter and the schedule of rates and charges prescribed herein shall constitute a part of all contracts for receiving services from the refuse removal system and shall apply to all applicable services received from the city, whether the services are based on the contract, agreement, signed application, or otherwise. (1969 Code, § 19-5)

17-105. <u>Refuse acceptable for collection</u>. The following refuse shall be considered to be acceptable for collection by the city or a contractor performing collections for the city:

- (1) Garbage.
- (2) Ashes.
- (3) Rubbish. (1969 Code, § 19-6)

17-106. <u>Refuse unacceptable for collection</u>. (1) The following refuse shall be considered to be unacceptable for collection by the city or a contractor performing such collection for the city:

(a) Dangerous materials or substances, such as poisons, acids, caustics, infectious materials and explosives.

(b) Materials resulting from the repair, excavation or construction of buildings or structures, such as earth, plaster, mortar, or roofing material.

(c) Materials which have not been prepared for collection in accordance with this chapter.

(d) The solid wastes resulting from industrial processes.

(2) Any person responsible for refuse not acceptable for collection by the city or its authorized collection service shall make arrangements for the collection and disposal of such refuse. Such refuse shall be disposed of at regular and frequent intervals and in no case shall it be stored more than seven (7) days. (1969 Code, § 19-7)

17-107. <u>Method of disposal by city and its contractor</u>. The city or its contractor shall dispose of refuse by the sanitary landfill method or by such other method as may be approved by the city. In disposing of refuse, the city or its contractor shall comply with all applicable federal, state, and local laws and regulations. Refuse shall not be disposed of by burning at the disposal site

except upon written approval of the city manager or his or her authorized representative. (1969 Code, § 19-8)

17-108. <u>Containers generally</u>. All refuse, except bundles, shall be stored in approved containers, which are at all times maintained in a state of good repair. (1969 Code, § 19-9)

17-109. <u>Containers for ashes</u>. Ashes containing hot embers shall not be placed in standard containers or special containers. Ashes containing hot embers shall be stored in special waste receptacles or other approved containers. (1969 Code, § 19-10)

17-110. <u>Preparation of bundles of rubbish for collection</u>. A bundle consisting of rubbish, such as boxes, cartons, paper, trimmings and similar matter, will be acceptable for collection, provided such bundle does not exceed five (5) feet in length and six and one-half ($6\frac{1}{2}$) feet in perimeter and weighs no more than one hundred (100) pounds. Such bundles must be securely tied to facilitate handling and the tie shall be of sufficient strength so that it will bear the weight of the bundle. (1969 Code, § 19-11)

17-111. <u>Disposal in city prohibited; exception</u>. It shall be unlawful for any person to dump, burn, bury or destroy or otherwise dispose of refuse within the city except that rubbish may be burned in accordance with the provisions of the fire prevention code. (1969 Code, § 19-12)

17-112. <u>Transportation into city by nonresidents for deposit in</u> <u>city prohibited</u>. No person who is not a resident of the city shall transport into or cause to be transported into the city any refuse for the purpose of depositing such refuse upon any ground, street, or place within the city. (1969 Code, § 19-13)

17-113. <u>Requirements for vehicles transporting refuse</u>. All vehicles used for the collection, removal, or transportation of refuse, including garbage, ashes, and rubbish, must be so constructed, maintained, and operated as to be easily cleaned and so as to prevent spilling and scattering of refuse in the course of the operation of removing same. (1969 Code, § 19-14)

17-114. <u>Deposit on private property generally</u>. (1) The owner or his or her agent or the occupant of any premises within the city shall be responsible for the sanitary condition of the premises occupied by him or her and it shall be unlawful for any person to place, deposit or allow to be placed or deposited on his or her premises any refuse except as designated by the terms of this chapter.

(2) No person shall throw or deposit refuse on any occupied private property within the city, whether owned by such person or not, except that the

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owner or person in control of private property may maintain authorized receptacles for collection in such a manner that refuse will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any other private property. (1969 Code, § 19-15)

17-115. [Deleted.] (1969 Code, § 19-16, as deleted by Ord. #17-06, Sept. 2006)

17-116. [Deleted.] (1969 Code, § 19-17, as deleted by Ord. #17-06, Sept. 2006)

17-117. [Deleted.] (1969 Code, § 19-18, as deleted by Ord. #17-06, Sept. 2006)

17-118. <u>Method of depositing in receptacles</u>. Persons placing refuse in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (1969 Code, § 19-19)

17-119. <u>Unlawful use of city-owned receptacles</u>. It shall be unlawful for the owner, manager or any employee of a business establishment to deposit any refuse from such establishment in any city-owned receptacle placed on a street, sidewalk or other public place. (1969 Code, § 19-20)

17-120. Establishment, maintenance and use of city's refuse disposal facilities. The city is hereby authorized to establish and maintain, by its own forces or by contract, refuse disposal facilities. The city may promulgate such rules and regulations for the maintenance and use of such facilities as deemed necessary. (1969 Code, § 19-21)

17-121. <u>Scavenging at or removal of refuse from city disposal site</u>. It shall be unlawful for any person to scavenge or salvage at any city-owned or operated refuse disposal site, or to remove any refuse therefrom, without permission of the city manager or his or her authorized representative. (1969 Code, § 19-22)

17-122. Notice and correction of violations of chapter.

(1) Whenever the city manager determines that there are reasonable grounds to believe that there has been a violation of any provision of this

chapter, he or she shall give notice of such alleged violation to the person or persons responsible therefor. Such notice shall:

(a) Be put into writing.

(b) Include a statement of the reasons why it is being issued.

(c) Be served upon the owner or his or her agent or the occupant of the premises where the alleged violation takes place.

(d) Allow a reasonable time for the performance of any act required by such notice.

(2) The notice provided for in subsection (1) may contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter. If such corrective action is not taken, the city manager may correct the same and, upon completion of the work, shall determine the reasonable cost thereof and bill the owner or tenant therefor.

(3) Whenever the city manager finds that a situation exists which endangers the public health he or she may, as an emergency measure, correct the same without any notice to the owner or occupant of the premises and, upon completion of the work, he or she shall determine the reasonable cost thereof and bill the owner or tenant therefor. This charge shall constitute a lien upon the property where the corrective measure is taken, and such lien shall be enforced as are other tax liens of the city.

(4) The provisions of this section are not exclusive but cumulative and shall be in addition to the penalties imposed for a violation of this chapter. The notice provided for herein shall not be a prerequisite to prosecution for violating any provision of this chapter. (1969 Code, § 19-23)

17-123. <u>Presumption concerning litter bearing person's name</u>. If an object of refuse is discovered on another's property without the property owner's permission or on any public highway, street or road or upon any public park or recreation area or upon any other public property except for property designated for deposit of refuse, and such object bears a person's name, it shall be prima facie evidence that the person whose name appears on the object threw, dumped or deposited or caused it to be thrown, dumped or deposited there. (1969 Code, § 19-24)

17-124. <u>Curbside recycling service and location</u>. Curbside recycling service shall begin at 7:00 A.M. Residents shall be responsible for placing recycling containers at the curb for servicing by the time the collection vehicle passes. Any containers not placed at the curb by such time will not be collected until the next recycle collection day. All materials placed at the curb for recycling shall be placed in containers, or otherwise in a manner so as to keep it from being carried, scattered, or deposited by the elements upon streets, sidewalks, or other property. Containers for recyclable materials shall not be placed on the curb prior to 7:00 P.M. the day prior to scheduled collection, and

shall be removed from the curb on the same day they are serviced. (1969 Code, \S 19-25)

17-125. <u>Scavenging prohibited</u>. It shall be unlawful for any person, except for employees of the city or the city's refuse collection contractor in the course of their employment, to scavenge, collect, remove, or otherwise disturb recycle containers or other containers containing recycle materials, or the contents therein, which have been placed at the curb for servicing. (1969 Code, § 19-26)

17-126. <u>Curbside recycling exceptions; permanent mobility</u> <u>impairment</u>. The city recognizes that some residents, because of a permanent mobility impairment, may be physically unable to transport the recycle container to the curb on collection day. The city, therefore, shall use the following procedures for providing special service to the household of residents with permanent mobility impairment serviced under its refuse collection contract, which special service shall provide back door recycle collection. Upon application, an exception may be granted by the city manager when the following criteria have been established:

(1) There is no person in the household, either adult or minor, who is physically capable of transporting the recycle container to the curb because of a permanent mobility impairment;

(2) There is no neighbor or relative not living in the household, who normally assists the resident because of the permanent mobility impairment, who is able or willing to assist the resident in transporting the recycle container to the curb; and

(3) A certification, on a form provided by the city manager, is provided by the resident's physician which certifies that the resident has a permanent mobility impairment which prevents the transportation of a recycle container to the curb. (1969 Code, § 19-27)

CHAPTER 2

PRIVATE COLLECTORS

SECTION

- 17-201. Prohibited without a permit.
- 17-202. Garbage collector's permit generally.
- 17-203. Fee for garbage collector's permit.
- 17-204. Insurance requirements for garbage collectors.
- 17-205. Vehicle requirements for garbage collectors.
- 17-206. To remove garbage from city.
- 17-207. Prohibited before specified time near residential areas.

17-201. <u>Prohibited without a permit</u>. No person, firm or legal entity shall engage in the business of the collection, removal or disposal of garbage, refuse or rubbish for a fee or charge without a permit issued under this chapter. (1969 Code, § 19-35)

17-202. <u>Garbage collector's permit generally</u>. (1) Permits for the collection of garbage, refuse or rubbish and its prompt removal from the corporate limits of the city may be issued by the city manager upon the filing of an application on a form prescribed by the city manager; but the same shall be issued only after the city manager has satisfied himself or herself that the applicant possesses or has available the necessary equipment and facilities to adequately perform the service of collection, storage, removal and disposal of garbage, refuse or rubbish. Permits shall be valid for one (1) year following date of issuance thereof unless sooner suspended or revoked. Any such permit may be immediately suspended for cause by the city manager and, after notice and hearing thereon, may be revoked by the city manager for the violation of any of the provisions of this chapter.

(2) Each permit issued under this section shall be numbered, and the permit holder shall place such number in a conspicuous place on each vehicle operated in the business. (1969 Code, § 19-36)

17-203. Fee for garbage collector's permit. A fee of one hundred dollars (\$100.00) shall be assessed and collected by the city manager for the issuance of each permit under § 17-202. In addition thereto, a fee of ten dollars (\$10.00) shall be assessed and collected for each vehicle designed for the collection and transportation of garbage and which is used by the permit holder in the collection and transportation of garbage under this permit. (1969 Code, § 19-37)

17-204. <u>Insurance requirements for garbage collectors</u>. As a condition precedent to the issuance of a permit under § 17-202, the applicant

shall furnish certificates showing general liability insurance for bodily injury liability on the comprehensive form with limits of one hundred thirty thousand dollars (\$130,000.00) per person in any one (1) accident and, subject to that limit for each person, three hundred fifty thousand dollars (\$350,000.00) for two (2) or more persons in any one (1) accident and automobile public liability and property damage insurance with limits of one hundred thirty thousand dollars (\$130,000.00) per person in any one (1) accident and, subject to that limit for each person, three hundred fifty thousand dollars (\$350,000.00) for two (2) or more persons in any one (1) accident for bodily injury liability and fifty thousand dollars (\$50,000.00) property damage liability on the comprehensive form covering owned, nonowned and hired automobiles which will be used in connection with the work to be done under the permit. (1969 Code, § 19-38, modified)

17-205. <u>Vehicle requirements for garbage collectors</u>. All vehicles used by the holder of a permit under this chapter for the collection, removal and disposal of garbage shall have watertight metal bodies, except that, where not more than sixty-five (65) gallons are collected during any one trip, the vehicle body may be other than watertight. When the vehicle body is not watertight, all garbage shall be transported in watertight containers with tight-fitting lids which are to be kept in place except during filling, unloading, or cleaning. Such containers shall be securely fastened to the vehicle during transit so that they will not overturn during normal use. (1969 Code, § 19-39)

17-206. <u>To remove garbage from city</u>. All garbage collected by holders of permits under this chapter shall be disposed of by removing the same from the corporate limits of the city. (1969 Code, § 19-40)

17-207. <u>Prohibited before specified time near residential areas</u>. No refuse collection shall commence or occur prior to 7:00 A.M. on any day at any location within a three hundred-foot radius of an inhabited residential dwelling. (1969 Code, § 19-41)

TITLE 18

WATER AND SEWERS¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. WATER AND SEWER EXTENSIONS.
- 3. SEWER USE ORDINANCE.

CHAPTER 1

MISCELLANEOUS

SECTION

- 18-101. Definitions.
- 18-102. Right of city to own, construct, operate, etc., waterworks and sewerage systems.
- 18-103. Rules and regulations for operation of waterworks and sewerage systems.
- 18-104. Rates, fees and charges for water and sewer service.
- 18-105. Rules, regulations and rate schedules to be part of contract for and apply to all water and sewer services.
- 18-106. Rate schedule to govern in case of conflict with rules and regulations adopted under title.
- 18-107. Water supply cross connections, auxiliary intakes, bypasses or interconnections.
- 18-108. Deposit of septic tank waste in sewers.
- 18-109. Stopping or interfering with flow of surface water--on city property or easements.
- 18-110. Stopping or interfering with flow of surface water--on private property.
- 18-111. Shifting or rechanneling ditches, drains, etc., on private property.

18-101. <u>Definitions</u>. As used in this title, the term "waterworks system" shall be construed to include but not be limited to all or any part of the following: Source of supply, pumping facilities, purification works, storage facilities, distribution system, together with all necessary parts and appurtenances for its proper operation. The term "sewerage system," as used herein, shall be construed to include but not be limited to all or any part of the following: The collecting system, intercepting and outfall sewers, utility access

¹Municipal code references

Building, utility and housing codes: title 12. Refuse disposal: title 17.

holes, pumping stations and treatment, purification and disposal plants. (1969 Code, § 25-1)

18-102. <u>Right of city to own, construct, operate, etc., waterworks</u> and sewerage systems. The city shall acquire and have the right to own, construct, extend, equip, operate and maintain, within or without the corporate limits of the city, a waterworks system and a sewerage system, for the purpose of providing water and sewerage service for the use and benefit of its inhabitants and for the use and benefit of persons, firms and corporations, including municipal corporations and inhabitants thereof, whose residences or places of business are located outside the territorial boundaries of the city. (1969 Code, § 25-2)

18-103. <u>Rules and regulations for operation of wateworks and</u> <u>sewerage systems</u>. The city, by ordinance, shall promulgate and establish rules and regulations governing the operation and maintenance of the waterworks system and the sewerage system. These rules and regulations shall be kept on file, open to the public, at the offices of the municipal utilities office.

Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of any ordinance promulgating rules and regulations for the operation and maintenance of the waterworks system and the sewerage system, and all such ordinances and rules and regulations are hereby recognized as continuing in full force and effect. (1969 Code, § 25-3)

18-104. Rates, fees and charges for water and sewer service.

(1) The city by ordinance, shall prescribe, establish and collect rates, fees and charges for the use of the service rendered by the waterworks and sewerage systems to be paid by the beneficiaries of the service. Such rates and charges shall be adjusted so that such systems shall be and always remain self-supporting. The rates, fees, and charges prescribed also shall be such as will produce revenues at least sufficient:

(a) To pay when due all bonds and interest thereon, for the payment of which such revenues are or shall have been pledged, charged or otherwise encumbered, including reserves therefor;

(b) To provide for all expenses of operation and maintenance of such systems, including reserves therefor; and

(c) Reserves for expansion or revision.

(2) Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of any ordinance establishing or otherwise relating to rates, fees and charges for services rendered by the waterworks and sewerage systems, and all such ordinances are hereby recognized as continuing in full force and effect. (1969 Code, § 25-4)

18-105. <u>Rules, regulations and rate schedules to be part of</u> <u>contract for and apply to all water and sewer services</u>. The rules and regulations and the schedule of rates and charges promulgated and established pursuant to this chapter shall constitute a part of all contracts for receiving services from the waterworks and sewerage systems and also shall apply to all such services received from the city, whether the services are based upon the contract, agreement, signed application or otherwise. (1969 Code, § 25-5)

18-106. <u>Rate schedule to govern in case of conflict with rules and</u> <u>regulations adopted under title</u>. In case of conflict between any provision of any rate schedule and the rules and regulations promulgated under this title, the rate schedule shall apply. (1969 Code, § 25-6)

18-107. <u>Water supply cross connections, auxiliary intakes,</u> <u>bypasses or interconnections</u>. (1) The following definitions and terms shall apply to the interpretation and enforcement of this section:

(a) "Public water supply." The waterworks system furnishing water throughout the City of Oak Ridge for general use and which supply is recognized as the public water supply by the Tennessee Department of Public Health.

(b) "Cross-connection." Any physical connection whereby the public water supply is connected with any other water supply system, whether public or private, either inside or outside of any building or buildings, in such manner that a flow of water into the public water supply is possible either through the manipulation of valves or because of ineffective check or back-pressure valves, or because of any other arrangement.

(c) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(d) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant, or safety device.

(e) "Interconnection." Any system of piping or other arrangement whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewerage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(f) "Person." Any and all persons, natural or artificial, including any individual firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(2) It shall be unlawful for any person to cause a cross-connection, auxiliary intake, bypass, or interconnection to be made, or allow one to exist for

any purpose whatsoever unless the construction and operation of the same have been approved by the city manager or his or her designee and a permit for the same has been received. The operation of such cross-connection, auxiliary intake, bypass or interconnection shall at all times be subject to the provisions of this section, the city cross-connection control plan, and all applicable state laws and regulations.

(3) Any person whose premises are supplied with water from the public water supply, and who also has on the same premises a 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 city manager or his or her designee certification that no unapproved or unauthorized cross-connections, auxiliary intakes, bypasses, or interconnections exist nor will exist on the premises.

(4) It shall be the duty of the city manager or his or her designee to inspect all properties served by the public water supply where there is a likelihood, reason or cause to believe cross-connections with the public water supply exist. In the event the city manager or his or her designee shall be refused the right to inspect such properties, such refusal shall be reported to the city attorney or staff attorney who shall prepare and obtain a search warrant for such premises from the city judge.

(5) Any person who has cross-connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this section as of the effective date shall comply with the provisions of this section within ninety (90) days after this section becomes effective; provided, however, for good cause shown, the city manager or his or her designee may extend the time for compliance where such extension does not jeopardize the public health, safety and welfare.

(6) Where the use of the water supplied a premises by the city is such that it is deemed:

(a) Impractical to provide an effective air-gap separation, or

(b) Where the owner and/or occupant of the premises cannot or is not willing to demonstrate to the official in charge of the system, or his or her 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 supply, or

(c) Where the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing, or

(d) If there is a likelihood that protective measures may be subverted, altered or disconnected, the city manager or his or her designee shall require the use of an approved protective device on the service line serving the premises so as to ensure that any contamination that may originate in the customer's premises is contained therein. The protective device shall be a reduced pressure zone type backflow preventer approved by the Tennessee Department of Public Health as to manufacturer, model and size. The method of installation of backflow protective devices shall be approved by the city manager or his or her designee prior to installation and shall comply with the criteria set forth by the Tennessee Department of Public Health. The installation shall be at the expense of the owner or occupant of the premises.

The city manager or his or her designee shall have the right to inspect and test the device or devices on an annual basis or at other reasonable times whenever deemed necessary by the city manager or his or her designee.

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 by the customer to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where only one unit is installed and the continuance of service is critical, the city manager or his or her designee shall notify, in writing, the occupant of the premises of plans to discontinue water service and arrange for a mutually acceptable time to test and/or repair the device. The water system shall require the occupant of the premises to make all repairs indicated promptly, and the expense of such repairs shall be borne by the owner or occupant of the premises. These repairs shall be made by qualified and duly licensed personnel.

(7) Potable water supplies available on the properties served by the public water supply 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." Minimum acceptable sign shall have black letters one-inch high located on red background.

(8) Any person who fails, neglects or refuses to comply with any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be subject to a fine of no more than fifty dollars (\$50.00) and to ninety (90) days in jail. Each day of continued violation shall constitute a separate offense.

(9) In addition to the fines and penalties provided herein, when any cross-connection, auxiliary intake, bypass, or interconnection is found in violation of this section, and such constitutes an imminent threat to the public health, safety or welfare, the city manager shall immediately disconnect the public water supply to such premises. Where such exists, but does not constitute an imminent threat to the public health, safety or welfare, the city manager shall notify the occupier or water service customer for such premises that unless such condition(s) are removed or corrected within seventy-two (72) hours, connection to the public water supply shall be disconnected. Such notice shall be delivered to the premises where such condition exists and if the occupier or water service customer is not present, it shall be posted on the front door of the premises.

Such notice shall include notification to the occupier or water service customer that he or she may request a hearing before the city manager within the seventy-two (72) hour period, and if such a request is made a hearing shall be held within seventy-two (72) hours thereafter. At the conclusion of such hearing, the city manager shall issue his or her decision in writing overturning, modifying or sustaining his or her previous notice and a copy shall be delivered to the occupier or water service customer or left at his or her premises if he or she is not there. Anyone whose water has been disconnected because of an imminent threat to public health, safety or welfare shall similarly be entitled to a hearing, provided the water supply shall remain disconnected until the city manager renders his or her decision or is otherwise convinced no imminent threat to the public health, safety, or welfare continues to exist.

(10) That should any part or parts of this section be declared invalid for any reason, no other part, or parts, of this section shall be affected thereby. (1969 Code, \S 25-7)

18-108. <u>Deposit of septic tank waste in sewers</u>. (1) It shall be unlawful for any person to remove sludge or other waste materials from septic tanks and deposit the same in the city, except in the sanitary sewer system at a place designated for such purpose by the city manager. The sanitary sewer system will be opened by employees of the city, as directed by the city manager, and waste materials from septic tanks may be deposited therein under the supervision of the city manager or his or her designated representative.

(2) The city manager is authorized and directed to impose and collect a charge in the amount of five dollars (\$5.00) for each deposit of sludge or other waste material described in subsection (1) into the sanitary sewer system of the city. All such charges so collected shall be deposited in the city's sanitary sewer fund. (1969 Code, § 25-8)

18-109. <u>Stopping or interfering with flow of surface water--on city</u> <u>property or easements</u>. It shall be unlawful for any person to stop or interfere with the flow of surface waters along or upon terraces, channels, pipes or swale ditches located upon property owned by or easements reserved to the city, by destroying, shifting, damaging or blocking the same. (1969 Code, § 25-9)

18-110. <u>Stopping or interfering with surface water--on private</u> <u>property</u>. It shall be unlawful for any person to stop or interfere with the flow of surface water along or upon a ditch, natural drain, or channel on privatelyowned property where the instrument which is the source of title to the land and the plat referred to therein describes a ditch or natural drain and such instrument contains a provision that the grantee therein shall take no action which stops or interferes with the flow of surface water through the same. (1969 Code, § 25-10)

18-111. <u>Shifting or rechanneling ditches, drains, etc., on private</u> <u>property</u>. It shall be unlawful for any person to shift or rechannel any ditch, natural drain, pipe, or terrace located on privately-owned property, where the

same is located on the property by reference to the plat of the same and is referred to in the instrument which is the source of title, unless he or she shall first apply to and obtain from the city a permit authorizing such shift or change. Application for a permit shall be on a form provided by the city manager and must be accompanied by details with respect to the extent of the change or shift. The city manager or his or her authorized representative shall approve the specifications and provide for inspection to insure that the completed work conforms to such specifications. (1969 Code, § 25-11)

CHAPTER 2

WATER AND SEWER EXTENSIONS

SECTION

18-201. Definitions.

18-202. General policies of city and intent of chapter.

18-203. Methods of financing projects providing more than local service.

18-204. Chapter does not affect other laws and regulations.

18-201. <u>**Definitions**</u>. For the purposes of this chapter, the following definitions apply:

(1) "Local service sanitary sewer line" means an eight (8) inch sanitary sewer line with utility access holes designed and installed in accordance with state and city standards.

(2) "Local service waterline" means an eight (8) inch waterline, including fire hydrants, fire hydrant valves and curb stops, designed and installed in accordance with state and city standards. (1969 Code, § 25-22)

18-202. <u>General policies of city and intent of chapter</u>. Any developer developing land within an area served by or to be served by any interceptor sewer system or water system shall finance within the subdivision those costs of a sanitary sewer system that are acceptable by:

(1) Recognized engineering principles as a normal sanitary sewer system for the subject area in conformity with the state and city requirements, and

(2) The policies set out in this chapter.

Developers shall, in addition, be liable for that portion of the additional costs incurred by the city in extension of the interceptor sewer system or water main as set forth in subsequent sections of this chapter. It is also the intent of this chapter that charges shall be established so that all recoverable city expenditures shall be recovered within ten (10) years after the start of any sewer or water service project. This ten (10) year period does not mean that the collection of the recoverable expenditures is limited to a ten (10) year period. The time shall be extended until all recoverable costs are collected. Furthermore, it is the intent of the city to establish methods of financing and facilitating the economical extension of the water and sewer lines wherever, in the opinion of the city, such extensions are warranted. Furthermore, it is intended that the authority for timing the construction and financing of any sewer or water systems extension, when it involves city money, shall be reserved for the city. Notwithstanding the timing qualification, it is the intent of the city to participate in and encourage the orderly extension of sewer and water services within the city while assuming such costs as may be determined to properly be the burden of the city. $(1969 \text{ Code}, \S 25-23)$

18-203. <u>Methods of financing projects providing more than local</u> <u>service</u>. The following are three (3) methods for financing sewer and/or water extension projects involving more than local service:

(1) A subdivider is required to install all water and sewer lines within the subject subdivision. This includes the engineering and submission for approval of detailed plans and specifications to the city and other agencies required by state statutes or city ordinances. The subdivider is required to finance the total cost of all on-site service lines. When such lines, by city requirements, are larger than local service lines, as defined in this chapter, the extra cost as determined by the city of such lines over and beyond the cost of the local service lines as determined by the city shall be reimbursed from water and sewer fund revenues. The reimbursement shall not begin until after twelve (12) calendar months have passed after this installation has been accepted for maintenance by the city and shall be based on the number of utility customers obtained by the city within the subdivision.

(2)When it is determined by the city that the city will construct a sanitary sewer and/or waterline project, and the project would provide more than local service, the city shall recover the cost of the local service from the total area to be served by a calculated fee to be charged against each lot already in existence within the project area or subsequently created. In the case of an existing lot, the charge shall be made at the time of connection to the water or sewer lines. The charge against lots created by subdivision of land within the project area shall be collected from the developer at the time of submission of the subdivision plat for final approval. The calculated fee shall be such as to permit the recovery of the city's funds when a predetermined portion of the serviced area shall have been developed. Even though the city has recovered all of the local service costs, all lots subsequently platted shall be charged the same fee as lots previously platted. The money so collected will be distributed at the end of the city's fiscal year to all lot owners of record within the serviced area on an equal basis, provided such lot owner shall have previously paid the established fee. In the event that the payment per lot would be less than ten dollars (\$10.00), the money shall not be distributed but shall be carried over into the next fiscal year.

(3) When a developer or other party, with permission of the city, extends or constructs a city sanitary sewer line and/or waterline, regardless of size, and such extended or constructed sanitary sewer and/or waterline provides sewer and/or water service to an area or areas other than the developer's property or project that was not previously provided such service, the city is authorized to enter into an agreement with the developer or other party, on such terms as the parties may agree, to reimburse the developer or other party all or a portion of the cost of the extension or construction of such project. In such event, or in the event the city has extended a sanitary sewer line and/or waterline, regardless of size, the city is additionally authorized to recover all or a portion of the city-incurred cost, including reimbursement cost, from charges

against the total area to be served from such sewer or waterline service. Such agreement and charges for recovery of cost shall be subject to approval of city council.

The charges provided for herein shall be such as to permit the recovery of city-incurred costs when a predetermined portion of the service area shall have been developed. Recovery of city-incurred costs from a lot already in existence at the time of the construction or extension or the sewer and/or waterline shall be a charge made at the time of connection to the water or sewer lines. The charge against lots created by subdivision of land within the project area shall be collected from the owner or developer at the time of submission of the subdivision plat for final approval. Even though the city has recovered all city-incurred costs, all lots subsequently platted within the service area shall be charged the same fee as lots previously platted. The money so collected will be distributed at the end of the city's fiscal year to all lot owners of record within the service area on an equal basis, provided the charge shall have been previously paid for such lot. In the event the payment per lot would have been less than ten dollars (\$10.00), the money shall not be distributed but shall be carried over into the fiscal year.

The provisions of this subsection are permissive, and nothing herein shall require the city to enter into any agreement, to require payment to the developer or other party, to require charges against lots, nor to authorize the extension of any city sewer or waterline without permission of the city. (1969 Code, § 25-24)

18-204. <u>Chapter does not affect other laws and regulations</u>. This chapter shall not be interpreted to supersede or modify in any way the subdivision regulations of the city or state regulations or the construction methods prescribed in other regulations dealing with the subject matter.

The provisions of this chapter shall be cumulative and nothing shall mean that the rules and regulations of the planning commission for subdivision improvements, including water and sewer lines, are waived. All engineering permits, inspections and state requirements provided for in other regulations and state statutes remain in effect. (1969 Code, § 25-25)

CHAPTER 3

SEWER USE ORDINANCE¹

SECTION

- 18-301. Title.
- 18-302. Administration.
- 18-303. Abbreviations.
- 18-304. Definitions.
- 18-305. Use of public sewers required.
- 18-306. Private sewage disposal.
- 18-307. Building sewers and connections.
- 18-308. Prohibitions and limitations on wastewater discharge.
- 18-309. Control of prohibited wastes.
- 18-310. Wastewater discharge permits, generally.
- 18-311. Wastewater discharge permit revocation.
- 18-312. Reporting requirements.
- 18-313. Wastewater sampling and analysis.
- 18-314. Compliance monitoring.
- 18-315. Confidential information.
- 18-316. Publication of users in significant noncompliance.
- 18-317. Enforcement procedures.
- 18-318. Industrial waste surcharge.
- 18-319. Validity.

18-301. <u>Title</u>. This ordinance shall be known and designated as the "sewer use ordinance." (1969 Code, § 25-30, replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-302. <u>Administration</u>. Except as otherwise provided herein, the city manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the city manager may be delegated by the city manager to a duly authorized municipal employee. (1969 Code, § 25-31, as amended by Ord. #2-05, March 2005, replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-303. <u>Abbreviations</u>. The following abbreviations, when used in this ordinance, shall have the meanings designated as follows:

(1) BOD - Biochemical Oxygen Demand

¹Municipal code reference

Plumbing code: title 12.

- (2) BMR Baseline Monitoring Report
- (3) CFR Code of Federal Regulation
- (4) CIU Categorical Industrial User
- (5) COD Chemical Oxygen Demand
- (6) EPA U.S. Environmental Protection Agency
- (7) gpd gallons per day
- (8) IU Industrial User
- (9) mg/l milligrams per liter
- (10) NPDES National Pollutant Discharge Elimination System
- (11) NSCIU Non-Significant Categorical Industrial User
- (12) POTW Publicly Owned Treatment Works
- (13) RCRA Resource Conservation and Recovery Act
- (14) SIU Significant Industrial User
- (15) SNC Significant Non-Compliance
- (16) TSS Total Suspended Solids
- (17) TTO Total Toxic Organics

(18) USC - United States Code (1969 Code, § 25-32, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-304. <u>Definitions</u>. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

(1) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977.

(2) "The approval authority" means the State of Tennessee, Department of Environment and Conservation, Division of Water Pollution Control or any authorized representative.

- (3) "Authorized representative of industrial user" means:
 - (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 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 subsections (a)(i) and (a)(ii) 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) "BOD" used in sewage or industrial waste shall designate its bio-chemical oxygen demand and shall mean the quantity of oxygen utilized in the bio-chemical oxidation of the organic matter of said sewage of industrial wastes under standard laboratory procedure in five (5) days at twenty degrees Celsius (20° C), expressed in milligrams per liter. It shall be determined by one of the acceptable methods described in 40 CFR part 136.

(5) "Building sewer" means a sewer conveying wastewater from the premises of a user to the POTW (see (39)). A building sewer ends at the tap on the city main sewer transition main.

(6) "Categorical industrial user" means any discharger subject to categorical pretreatment standards under 40 CFR chapter I, subchapter N (see (10)).

(7) "Categorical pretreatment standard or categorical standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 USC section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

(8) "City" means the City of Oak Ridge acting as a municipal corporation under the laws of the State of Tennessee or the City Council of Oak Ridge, acting through the city manager.

(9) "City manager" means the City Manager of the City of Oak Ridge.

(10) "Code of Federal Regulations or CFR" means the publication of the same name by the Office of the Federal Register, National Archives and Records Administration containing a codification of the general and permanent rules published in the federal register by executive department and agencies of the federal government. The code of federal regulations is prima facie evidence of the text of the original documents. Cites to the document are as follows: XX CFR YYY where XX represents the title and YYY representing chapter and section

within that title. CFR documents are available from the superintendent of Documents, US Government Printing Office, Washington, DC 20402.

(11) "Control authority" means the City of Oak Ridge, Tennessee acting through the city manager or the city manager's authorized representative.

(12) "Customer" means any individual, firm, company, association, society, corporation or group who is the beneficiary of the water and sewer service or who is utilizing the water and/or sewer system of the City of Oak Ridge.

(13) "Daily maximum" means the arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(14) "Daily maximum limit" means 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.

(15) "Garbage" means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

(16) "Grab sample" means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

(17) "Holding tank waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailer, septic tanks, and vacuum-pump tank trucks.

(18) "Indirect discharge" means the discharge or introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system) for treatment before direct discharge to the waters of the State of Tennessee.

(19) "Industrial user" means a source of indirect discharge which does not constitute a "discharge of pollutants" under regulation issued pursuant to section 402 of the Act.

(20) "Industrial wastewater" means the wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

(21) "Instantaneous limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(22) "Interference" means 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.

(23) "Local limit" means specific discharge limits developed and enforced by the city 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).

(24) "May" is permissive.

(25) "Medical waste" means 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.

(26) "Monthly average" means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(27) "Monthly average limit" means 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 discharged" measured during that month.

(28) "National pretreatment standards" means any regulation containing pollutant discharge limits promulgated by the EPA and in accordance with section 307(b) and (c) of the Act (33 USC 1317) which applies to the industrial users.

(29) "NPDES permit" means the National Pollutant Discharge Elimination System as defined in section 402 of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500).

(30) "New source" means:

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act that 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 of wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining where these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the

criteria of (a)(ii) or (a)(iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this section has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing building, 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 section.

(31) "Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(32) "Pass through" means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit, including an increase in the magnitude or duration of a violation.

(33) "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, government entity, or other legal entity, or legal representative, agents or assigns. The masculine gender shall mean to include the feminine, the singular shall include the plural where indicated by the context.

(34) "pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.

(35) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(36) "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(37) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(38) "Pretreatment standards" means all applicable rules and regulations contained in the code of federal regulations as published in the federal register, under section 307 of Public Law 92-500 and in the Tennessee Pretreatment Requirements, chapter 1200-4-14.

(39) "Publicly Owned Treatment Works or POTW" means a treatment works as defined by section 212 of the Act, which is owned in this instance by the City of Oak Ridge. This definition includes any sewer that conveys wastewater to the treatment works.

(40) "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm water as may be present.

(41) "Shall" is mandatory.

(42) "Significant industrial user" means: (a) A significant industrial user means:

(i) An industrial user subject to categorical pretreatment standards; or

(ii) An industrial user that:

(A) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(B) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(C) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(b) The city may determine that an industrial user subject to categorical pretreatment standards 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 city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(ii) The industrial user annually submits the certification statement required in § 18-313(5)(b) (see 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.

(c) Upon a finding that a user meeting the criteria in subsection (a)(ii) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in Tennessee Rule 1200-4-14-.08(6)(f), determine that such user should not be considered a significant industrial user.

(43) "Slug load or slug discharge" means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-308 of this ordinance. 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.

(44) "Standard methods" means the testing methods approved for use in 40 CFR 136 as appropriate.

(45) "Storm water" means any flow occurring during or immediately following any form of natural precipitation and resulting therefrom.

(46) "Superintendent" means the city manager or the city manager's designee primarily responsible for wastewater discharges.

(47) "Total suspended solids or suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(48) 'Toxic pollutant" means any pollutant or combination of pollutants listed as toxic in the regulations promulgated by the administrator or Environmental Protection Agency under the provisions of 33 USC 1317.

(49) "User" means any person discharging wastes to the City of Oak Ridge POTW.

(50) "Waste" means any waste, including sewage and any other waste substances, liquid, solid, or gases that are radioactive, associated with human habitation, or human or animal origin, or from any producing, manufacturing, or processing operation or whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of disposal.

(51) "Wastewater" means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(52) "Miscellaneous terms" means terms not otherwise defined herein shall be defined as shown in the latest edition of Standard Methods for the Examination of Water and Wastewater or other appropriate federal or state guidelines and regulations. (1969 Code, § 25-33, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-305. <u>Use of public sewers required</u>. (1) <u>Disposal of waste</u>. It shall be unlawful for any person to place, deposit, or permit to be deposited on public or private property within the City of Oak Ridge any human or animal excrement or other objectionable waste in such a manner to create a public nuisance or to create a threat or danger to the public health and safety. This section shall not apply to the depositing of animal excrement by livestock or through other generally accepted agricultural activities, nor to the depositing of excrement from household pets, provided such excrement is not deposited nor allowed to accumulate to such an extent as to cause a public nuisance or otherwise to constitute a threat or danger to the public health or safety, and provided further that it shall be unlawful to place, deposit, or to permit to be deposited upon the property of another within the City of Oak Ridge human or animal excrement or other objectionable waste in any amount without the permission of the owner of such property.

(2) <u>Direct discharge prohibited</u>. It shall be unlawful to discharge to any natural outlet within the City of Oak Ridge, or any area under the jurisdiction of said city, any sewage or other polluted waters, except where a federal or state discharge permit has been duly issued and is currently valid for such discharge.

(3) <u>New private disposal systems prohibited</u>. Except as hereinafter provided or as otherwise permitted by ordinance or regulation, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other private facility intended or used for the disposal of sewage.

(4) <u>City's right to require sanitary facilities</u>. The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes which abut upon a street, road, right-of-way or other public way containing a public sanitary sewer shall upon demand by the city install suitable toilet facilities therein and connect the same directly with the proper public sewer in accordance with the provisions of this ordinance and shall cease to use any other means for the disposal of sewage, waste, wastewater, and other polluting matter, provided however the city may waive such requirement in specific cases where it has determined that public sewer service to any particular individual user(s) would be unduly difficult or expensive and that alternative measures of disposal would not be hazardous to public health.

(5) <u>City's right to require sewer hookup</u>. The owner, tenant or occupant of all houses, buildings, improvements or properties used for residential, commercial, industrial or recreational and all other human occupancy purposes which abut upon a street, road, right-of-way or other public way containing a public sanitary sewer shall upon demand by the city connect such house, building, improvement or property with the proper public sewer in accordance with the provisions of this ordinance and shall cease to use any other means for disposal of sewage, waste, wastewater or other polluting matter, provided however the city may waive such requirements in specific cases where it has determined that public sewer service to any particular individual user(s) would be unduly difficult or expensive and that alternative measures of disposal would not be hazardous to public health.

(6) <u>Disposal of private waste by truck</u>. The superintendent shall designate the locations and times where vacuum or "cess pool" trucks may be discharged, and may refuse to accept any truckload of waste in his absolute discretion where it appears that the waste could interfere with the effective operation of the treatment works or any sewer line or appurtenance thereto. The owner or operator of a truck shall upon request, provide manifest to the POTW that states the source of the domestic waste they wish to discharge, the volume of wastewater from each source, and whether any industrial waste is included in the wastewater.

(7) <u>Holding tanks</u>. No person shall discharge any other holding tank waste into the POTW unless he shall have applied for and have been issued a permit by the superintendent. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge, and shall limit the wastewater constitutes and characteristic of the discharge. Such user shall pay any applicable charges or fees therefore, and shall comply with the conditions of the permit issued by the superintendent. Provided, however, no permit shall be required to discharge is made into an approved facility designed to receive such waste. (1969 Code, § 25-34, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-306. <u>Private sewage disposal</u>. The disposal of sewage by means other than the use of the available public sanitary sewage system shall be in accordance with local, county and state law. The disposal of sewage by private disposal systems shall be permissible only in those instances where service from the available public sanitary sewer system is not available, or where such is otherwise permitted by city ordinance or regulations. (1969 Code, § 25-35, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-307. <u>Building sewers and connections</u>. (1) <u>Connections of building sewers to POTW</u>. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sanitary sewer or appurtenance thereof without first obtaining a written permit from the control authority. The owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the control authority.

(2) <u>Cost of installation</u>. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the property owner. The property owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(3) <u>Separate sewers required</u>. A separate and independent building sewer shall be provided for every building.

(4) <u>Old building sewers</u>. Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the city, to meet all requirements of this ordinance.

(5) <u>Construction controls for new sewers</u>. 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 back filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the <u>International Plumbing Code</u> and the <u>International Residential Code</u> shall apply.

(6) <u>Sewer entrances to private facilities</u>. Whenever possible, the building sewer shall be brought to the building at an elevations 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.

(7) <u>Extraneous water prohibited</u>. 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. Exceptions may be made only if such connection is approved by the superintendent for purpose of disposal of polluted surface drainage or ground water. Such connections, if approved, will require a wastewater discharge permit.

(8) <u>Quality of construction</u>. All connections to the city system shall be made gas tight and watertight. Any deviations from the prescribed procedures and materials must be approved by the control authority before installation.

(9) <u>Inspection of sewers</u>. The applicant for the building sewer permit shall notify the control authority or his representative when the building sewer

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is ready for inspection and connection to the public sewer. The connection shall be made by or under the supervision of the control authority.

(10) <u>Excavation safety</u>. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public. Property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(11) <u>Condition of private sewers</u>. Users shall be responsible for the integrity of building sewers on his property. If it is determined that these lines are faulty or in a bad state of repair, such that extraneous storm water can enter the POTW, the city may require the customer to repair his pipes. If the pipes are not repaired within the time period allowed by the city, service shall be terminated.

Grease control equipment. (12)All food service establishments, including but not limited to cafes, restaurants, motels, hotels, grocery stores, retirement centers, hospitals, mobile food units, prisons, or other commercial food preparation establishments that cook or prepare food are required to comply with the city's Fats, Oils and Grease (FOG) management policy. Food service establishments shall be required to install a grease interceptor, at the owner's expense within ninety (90) days after notification by the city, if and when the city determines that a grease problem exists which is capable of causing damage or operational problems to structures or equipment in the city sewer system, or if such is otherwise required by city ordinance, the FOG management policy, state law, or federal law. The city shall retain the right to inspect and approve installation of the grease interceptor. The grease interceptor must precede the septic tank on the kitchen waste line if a septic tank is used. The grease interceptor must be designed and installed in accordance with the FOG management policy and shall be easily accessible for cleaning. Grease interceptors and grease traps shall be maintained by the owner or operator of the facility as designated in the FOG management policy requirements. If city employees are required to clean out the city sewer lines as a result of a stoppage resulting from a clogged grease trap, the property owner or operator shall be required to pay the costs of the city's labor and materials required to clean out the sewer lines. The installation of grease interceptors and grease traps shall be in accordance with the FOG management policy and this subsection. All grease waste haulers are required to comply with the FOG management policy requirements.

(13) <u>Alteration to and obstruction to city sewers</u>. No person shall obstruct entrance to or operation of the city sanitary sewer system. Existing manholes are to be kept uncovered and accessible at all times. In the event that construction involving the filling of an area around a manhole occurs, the owner of the property, or the person causing the construction to be accomplished shall bear all costs associated with the required adjustment of the sewer manholes. Filling or grading of a property such that storm water concentrates at a manhole will not be permitted. The city reserves the right to enter onto its easements at all times to maintain its system and to remove or cause to be removed all obstructions to said entrance, and furthermore to assess the costs of the removal of obstructions against the owner thereof.

(14) <u>Maintenance of building sewers</u>. The owner of a building sewer is responsible for the maintenance (and replacement, if required) of the building sewer from his building to either:

(a) The tap on the city main sewer lines; or

(b) The point of confluence with flow from buildings owned by another owner; whichever is shorter.

Should the building sewer cross a public right-of-way before entering the main line sewer, the property owner is responsible for maintenance of the line to the main line; however, should city owned facilities, such as sidewalks, curbs, gutters, or streets be disturbed by the repair of the building sewer, the city will repair said improvements as are reasonable disturbed by the work at no cost to the owner of the property. Operations in a public right-of-way require written permission of the city and proper safety provisions including but not limited to traffic control as outlined in the <u>Manual of Uniform Traffic Control</u> adopted by the State of Tennessee. (1969 Code, § 25-36, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, replaced by Ord. #5-09, March 2009, and amended by Ord. #9-11, June 2011)

18-308. Prohibitions and limitations on wastewater discharge.

(1) <u>Requirements of wastewater permits</u>. (a) No person shall discharge or cause to be discharged into the City of Oak Ridge POTW any wastewater other than domestic sewage resulting from normal human habitation including food preparation activities unless he holds a wastewater discharge permit as defined in § 18-310 of this ordinance. This section shall not apply to existing sources until they are notified of its requirement in writing.

(b) Persons discharging radionuclides only in addition to domestic sewage are required to obtain a wastewater treatment permit unless:

(i) Material discharged is characterized by a half-life of less than ten (10) days, and a lack of significant alpha activity; and

(ii) At no point along the collection system is activity more than double background levels at the surface with all manholes closed and the system functioning normally; and

(iii) No more than five hundred (500) microcuries of material are discharged per hour measured at the point of discharge into the wastewater collection system to a maximum of three thousand five hundred (3,500) microcuries per day.

It is the responsibility of the discharging party to arrange for verification of these limits within five (5) days of a written request to do so by the city.

(c) The control authority may waive the requirements for a wastewater discharge permit on a case-by-case basis for dischargers whose effluent does not violate the criteria for domestic sewage as established by the controlling agency and who, furthermore, are not categorical users. Notwithstanding the following, existing non-permitted dischargers or dischargers who have had the permit requirement waived may be required to obtain a discharge permit upon sixty (60) days notification by the controlling authority based on the observed character of the user's operations or his waste stream or suspected impact on the POTW or other factors which the control authority may define.

(d) In order to avoid wastewater influent to the treatment plant which creates adverse effects, or interferes with any wastewater treatment or collection processes, or creates any hazard in receiving waters or results in the city being in violation of applicable effluent standards including sludge disposal standards, the control authority shall establish and amend wastewater effluent limits as deemed necessary. Limits for certain parameters are set as protection criteria for the POTW. Discharge limits for industrial users will be set in discharge permits as outlined in § 18-310 of this ordinance. Such limits will be calculated based on the anticipated ability of the plant to absorb specific wastewater constituents without violation of its NPDES permit, safety of the public, and/or disruption of plant operations including sludge disposal; not to exceed, however, federal limits where applicable.

(e) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The superintendent 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.

(2) <u>Prohibitions on wastewater discharge</u>. Regardless of permit status, no person shall discharge or cause to allow to be discharged into the City of Oak Ridge POTW or any connected treatment facilities any waste which contains any of the following:

(a) Oils and grease. Fats, wax, grease or oils of animal or vegetable origin in concentrations of greater than one hundred (100) mg/l, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between thirty-two (32) degrees and one hundred fifty (150) degrees F (zero (0) degrees and sixty-five (65) degrees C) at the point of discharge into the system.

(b) Explosive mixtures. Liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient to cause a fire or explosion hazard or be injurious in any other way to the POTW or to

the operation of the system. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the sewer system, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL). Wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Centigrade using the test methods specified in 40 CFR 261.21. Prohibited materials included, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

(c) Noxious materials. Noxious or malodorous solids, liquids or gases, which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life, or are or may be sufficient to prevent entry into a sewer for its maintenance and repair.

(d) Improperly shredded garbage. Garbage that has not been ground or comminuted to such a degree that all particles are one-half inch (1/2") or less in greatest dimension and will be carried freely in suspension under flow conditions normally prevailing in the public sewers.

(e) Radioactive wastes. Radioactive wastes or isotopes of such half-life or concentration that they are in noncompliance with regulations issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the POTW or personnel operating the system.

(f) Solids or viscous wastes. Solid or viscous waters which will or may cause obstruction to the flow in a sewer, or other interference with the proper operation of the POTW. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.

(g) Excessive discharge rate. Wastewaters at a flow rate which is excessive relative to the capacity of the treatment works or which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the treatment works would cause interference.

(h) Toxic substances. Any toxic substances, chemical elements or compounds, phenols or other taste- or odor-producing substances, or any substances in amounts which may interfere with the biological processes or efficiency of the treatment works, or that will pass through the treatment works in concentrations which would cause the POTW to exceed its NPDES permit limits.

(i) Unpolluted waters. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the superintendent.

(j) Discolored materials. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit.

(k) Corrosive wastes. Any waste which will cause corrosion or deterioration of the POTW. All wastes discharged to the public sewer system must have a pH value in the range of six to nine (6 - 9). Prohibited materials include, but are not limited to acids, sulfides, concentrated chloride and fluoride compounds and substances which will react with water to form acidic products.

(1) Thermal discharge. Heat in amounts which will inhibit biological activity in or cause damage to the POTW resulting in interference, but in no case heat in such quantities that the temperature at the treatment plant exceeds forty (40)°C (one hundred four (104)°F). Under no conditions may the temperature at the point of discharge exceed one hundred twenty (120)°F.

(m) Human hazard. Any wastewater which caused hazard to human life or creates a public nuisance.

(n) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test.

(o) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW.

(p) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(q) 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.

(3) <u>Limitation on wastewater discharge</u>. No person shall discharge or convey or cause to be discharged or conveyed to the public sewer any wastewater containing pollutants of such character or quantity that will:

(a) Not be amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(b) Constitute a hazard to human or animal life or to the stream or water course receiving the treatment plant effluent.

(c) Exceed limits as set forth in his wastewater discharge permit or violate the federal pretreatment standards.

(d) Cause the treatment plant to violate its NPDES permit, pass-through limits, or other applicable receiving water standards, or cause interference with plant operations.

(e) Contain any water or wastes whose strength or other characteristics exceed the limits for normal wastewater which may be established by the control authority. (1969 Code, § 25-37, as amended by Ord. #2-05, March 2005, replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-309. <u>Control of prohibited wastes</u>. (1) <u>National categorical</u> <u>pretreatment standards</u>. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405 – 471.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the superintendent may impose equivalent concentration or mass limits in accordance with Tennessee Rule 1200-4-14-.06(3).

(b) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the superintendent 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 individual industrial users.

(c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the superintendent shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(d) The superintendent may convert the mass limits of the categorical pretreatment standards of 40 CFR 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 superintendent.

(e) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this § 18-309 in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(f) Many categorical pretreatment standards specify one (1) limit for calculating maximum daily discharge limitations and a second limit for calculating maximum 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.

(g) Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the superintendent 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 superintendent 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.

(2) <u>Tennessee Pretreatment Standards</u>. Users must comply with Tennessee Pretreatment Standards codified at 1200-4-14.

(3) <u>Regulatory actions</u>. If wastewaters containing any substances in excess concentrations as described in § 18-308 of this ordinance are discharged or proposed to be discharged into the sewer system of the City of Oak Ridge or to any sewer system tributary thereto, the city shall take any action necessary to:

(a) Prohibit the discharge of such wastewater.

(b) Require a discharger to demonstrate that in-plant modifications will eliminate the discharge of such substances to a degree as to be acceptable to the city.

(c) Require pretreatment, including storage facilities or flow equalization, necessary to reduce or eliminate the objectionable characteristics or substances so that the discharge will not violate these rules and regulations or federal pretreatment standards and any other applicable requirements promulgated by the EPA in accordance with section 307 of the Clean Water Act of 1977.

(d) Require the person or discharger making, causing or allowing the discharge to pay any added cost of handling and treating excess loads imposed on the POTW. Nothing herein authorizes discharge, otherwise prohibited, upon payment of cost therefore.

(e) Discontinue sewer service to the discharger until such time as the problem is corrected.

(f) Take such other remedial action provided by law as may be deemed to be desirable or necessary to achieve the requirements of this ordinance.

(4) <u>Submission of plans</u>. (a) Where pretreatment or equalization of wastewater flows prior to discharge into any part of its POTW is required by the City of Oak Ridge; plans, specifications and other pertinent data or information relating to such pretreatment of flow-control facilities shall be submitted to the control authority for review and approval. Approval shall in no way exempt the discharge of such facilities from compliance with any applicable code, ordinance, rule or regulation of any

governmental unit or the city. Any subsequent alterations or additions to such pretreatment or flow-control facilities shall not be made without due notice to, and approval of, the control authority.

(b) The superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The superintendent 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 superintendent may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(i) Description of discharge practices, including nonroutine batch discharges;

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the superintendent of any accidental or slug discharge, as required by § 18-309(6) of this ordinance; and

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

(5) <u>Pretreatment facilities operations</u>. If pretreatment or control of waste flows is required, such facilities shall be effectively operated and maintained by the user at his or her expense, subject to the requirements of these rules and regulations and all other applicable codes, ordinances and laws.

(6) <u>Reporting of accidental discharges</u>. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification

relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge.

(7) <u>Right of entry</u>. Agents of the City of Oak Ridge, the Tennessee Department of Environment and Conservation (TDEC) and/or EPA upon presentation of credentials shall be permitted to enter all properties of the contributing industry for the purpose of inspection, observation, measurement, sampling, and testing. (1969 Code, § 25-38, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-310. <u>Wastewater discharge permits, generally</u>. (1) <u>Permits</u> required. All persons proposing to connect to or discharge into the sanitary sewer system any material other than normal domestic waste shall be considered an industrial user and must obtain a wastewater discharge permit from the control authority before connecting to or discharging into the sanitary sewer. All existing industrial users connected to or discharging into the city's sanitary sewer must obtain a wastewater discharge permit within sixty (60) days after notice from the city.

(2) <u>Permit application</u>. (a) All users required to obtain an individual wastewater discharge permit must submit a permit application. The superintendent may require users to submit all or some of the following information as part of a permit application:

(i) Identifying information. (A) The name and address of the facility, including the name of the operator and owner.

(B) Contact information, description of activities, facilities, and plant production processes on the premises.

(ii) Environmental permits. A list of any environmental control permits held by or for the facility.

(iii) Description of operations. (A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(C) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(D) Type and amount of raw materials processed (average and maximum per day); and

(E) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(iv) Time and duration of discharges.

(v) The location for monitoring all wastes covered by the permit.

(vi) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 18-309(1)(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) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-313(1) of this ordinance. Where the standard requires compliance with a pollution prevention alternative, such as the certification alternative in lieu of required monitoring for TTO, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in \S 18-313(2) of this ordinance.

(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 § 18-312(4)(b). [See 1200-4-14-.12(5)(b)].

(ix) Any other information as may be deemed necessary by the superintendent to evaluate the permit application.

(b) Application signatories and certifications. (i) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-313(5)(a).

(ii) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the superintendent prior to or together with any reports to be signed by an authorized representative.

(iii) A facility determined to be a non-significant categorical industrial user by the superintendent pursuant to § 18-304(42)(b) must annually submit the signed certification statement in § 18-313(5)(b) [Note: See 40 CFR 403.3(v)(2)]

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

(3) <u>Permit conditions</u>. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the superintendent 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.

Wastewater discharge permits shall be expressly subject to all provisions of this ordinance and all other regulations, user charges and fees established by the city. The conditions of wastewater discharge permits shall be uniformly enforced by the city in accordance with this ordinance, and applicable state and federal regulations. Permits must contain all items required by federal regulation; and further, may include but not necessarily be limited to the following:

(a) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(b) Requirements that the industrial user comply with any and all pretreatment standards and requirements either local, state or federal;

(c) A statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing permit to the new owner or operator;

(d) The average and maximum wastewater constituents and characteristics;

(e) Effluent limits, including pollution prevention alternative, based on applicable pretreatment standards;

(f) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or pollution prevention alternative) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(g) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with § 18-312(4)(b);

(h) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law;

(i) Requirements to control slug discharge, if determined by the superintendent to be necessary;

(j) Any grant of the monitoring waiver by the superintendent (§ 18-312(4)(b)) must be included as a condition in the user's permit;

(k) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

(l) Requirements for installation of inspection and sampling facilities and schedules for said installation;

(m) Requirements for installation and operation of pretreatment systems or process modifications and schedule for said installations;

(n) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

(o) Requirements for maintaining plant records relating to wastewater discharge as specified by the control authority and affording the city access thereto;

(p) Requirements that the city maintain the right to enter onto the premises for inspection of operations including process areas, pretreatment areas, and any such other portions of the premises which may be deemed appropriate by the controlling authority;

(q) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for

compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and

(r) Other conditions as deemed appropriate by the control authority to insure compliance with this ordinance and state and federal pretreatment standards and requirements.

(4) <u>Duration of permits</u>. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The permittee must apply for a renewal permit not more than ninety (90) days and no less than seventy-five (75) days prior to the expiration of his or her valid permit. If the user is not notified by the control authority of permit expiration, the permit shall be considered extended for thirty (30) days at a time up to a total of one (1) additional year. The terms and conditions of the permit may be subject to modification and change by the control authority during the life of the permit as limitations or requirements as identified hereinbefore are modified and changed. The user shall be informed of any proposed changes in his or her permit at least thirty (30) days prior to the effective, date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(5) <u>Transfer of a permit</u>. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premise, or a new or changed operation. (1969 Code, § 25-39, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-311. <u>Wastewater discharge permit revocation</u>. The superintendent may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the superintendent of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the superintendent of changed conditions pursuant to § 18-312(5) of this ordinance;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports and certification statements;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the superintendent timely access to the facility premises and records;

- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater surveyor the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user. (1969 Code, § 25-40, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-312. <u>Reporting requirements</u>. (1) <u>Baseline monitoring reports</u>.

(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 superintendent a report which contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (1)(b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(i) All information required in §§ 18-310(2)(a)(i)(A), 18-310(2)(a)(ii), 18-310(2)(a)(iii)(A), and 18-310(2)(a)(vi).

(ii) Measurement of pollutants. (A) The user shall provide the information required in §§ 18-310(2)(a)(vii)(A) through 18-310(2)(a)(vii)(D).

(B) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined 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 §§ 18-313(1) and 18-313(2);

(1) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(2) 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 § 18-304(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(iv) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-312(2) of this ordinance.

(v) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-313(5)(a) of this ordinance and signed by an authorized representative as defined in § 18-304(3).

(2) <u>Compliance schedule progress reports</u>. The following conditions shall apply to the compliance schedule required by § 18-312(1)(b)(iv) of this ordinance:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading

to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, 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 superintendent.

Reports on compliance with categorical pretreatment standard (3)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 superintendent a report containing the information described in §§ 18-310(2)(a)(vi), 18-310(2)(a)(vii), and 18-312(1)(b)(ii) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-309(1), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 18-313(5)(a) of this ordinance. All sampling will be done in conformance with § 18-313(2).

(4) <u>Periodic compliance reports</u>. (a) All permitted significant industrial users must, at a frequency determined by the superintendent submit no less than quarterly per year (unless otherwise 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 pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) The city may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated 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. [see 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, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See § 18-310(2)(a)(viii).

(iii) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one (1) sampling 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 a monitoring waiver must be signed in accordance with § 18-304(3), and include the certification statement in § 18-313(5)(a). (See 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 CFR 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 superintendent 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 superintendent for three (3) years after expiration of the waiver.

(vii) Upon approval of the monitoring waiver and revision of the user's permit by the superintendent, the industrial user must certify on each report with the statement in § 18-313(5)(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 § 18-312(4)(a), or other more frequent monitoring requirements imposed by the superintendent, and notify the superintendent.

(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 § 18-313(5)(a) of this ordinance.

(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 superintendent, using the procedures prescribed in § 18-313(2) of this ordinance, the results of this monitoring shall be included in the report.

(5) <u>Reports of changed conditions</u>. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-310(2) of this ordinance.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-310 of this ordinance or modify an existing wastewater discharge permit under § 18-310(4) of this ordinance in response to changed conditions or anticipated changed conditions.

(6) <u>Reports of potential problems</u>. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not

relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the superintendent immediately of any changes at its facility affecting the potential for a slug discharge. (1969 Code, § 25-41, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-313. <u>Wastewater sampling and analysis</u>. (1) <u>Analytical requirements</u>. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the epa determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(2) <u>Sample collection</u>. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period:

Except as indicated in subsection (2)(b) and (2)(c) below, the (a)user must collect wastewater samples using twenty-four (24) hour unless flow-proportional composite sampling techniques, time-proportional composite sampling or grab sampling is authorized by the superintendent. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in §§ 18-312(1) and 18-312(3) [Tennessee Rule 1200-4-14.12(2) and (4)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by paragraphs § 18-312(4) (Tennessee Rule 1200-4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(3) <u>Control manhole</u>. When required by the control authority, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the control authority. The manhole shall be installed by the user at his expense, and shall be maintained by him so as to be safe and accessible at all times. The control authority shall have access and use of the control manhole as may be required for their monitoring of the industrial discharge.

(4) <u>Recordkeeping</u>. Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses: the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(5) <u>Certification statements</u>. (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 § 18-310(2)(b); users submitting baseline monitoring reports under § 18-312(1)(b)(v); users submitting reports on compliance with the categorical pretreatment standard deadlines under § 18-312(3); users submitting periodic compliance reports required by § 18-312(4), and users submitting an initial request to forego sampling of a pollutant on the basis of § 18-312(4)(b)(iv). The following certification statement must be signed by an authorized representative as defined in § 18-304(3):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(b) Annual certification for non-significant categorical industrial users. A facility determined to be a non-significant categorical industrial user by the superintendent pursuant to §§ 18-304(42)(b) and 18-310(2)(b)(iii) must annually submit the following certification statement signed in accordance with the signatory requirements in § 18-304(3). This certification must accompany an alternative report required by the superintendent:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _, I certify that, to the best of my knowledge and belief that during the period from _____, ____ to _____, ____ [months, days, year]:

(1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 18-304(42)(b);

(2) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(3) The facility never discharged more than 100 gallons 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 § 18-312(4)(b) 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 or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR______ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of ______ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 18-312(4). (1969 Code, § 25-42, as replaced by Ord. #2-09, Jan. 2009, repealed by Ord. #4-09, March 2009, and replaced by Ord. #5-09, March 2009)

18-314. Compliance monitoring. (1) Monitoring programs.

(a) The monitoring program shall require the discharger to conduct a sampling and analysis program of a frequency and type specified by the control authority to demonstrate compliance with prescribed wastewater discharge limits. The discharger may either:

(i) Conduct his or her own sampling and analysis program provided he demonstrates to the control authority that he or she has the necessary qualifications and facilities to perform the work; or

(ii) Engage a private laboratory, approved by the control authority.

(b) In the event that the control authority suspects that a violation of any part of this ordinance or of the user's wastewater discharge permit is occurring, it may take samples for the purpose of monitoring the discharge. Should this monitoring verify that a violation is occurring, the costs of the monitoring and associated laboratory fees will be borne by the discharger. Should no violation be found, the costs will be at the expense of the control authority.

(c) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify

the superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the superintendent within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs the sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(2) <u>Right of entry: inspection and sampling</u>. The superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

(e) Unreasonable delays in allowing the superintendent access to the user's premises shall be a violation of this ordinance.

(3) <u>Search warrants</u>. If the superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the superintendent may seek issuance of a search warrant from the City Court of Oak Ridge. (as added by Ord. #5-09, March 2009)

18-315. Confidential information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction. (as added by Ord. #5-09, March 2009)

18-316. <u>Publication of users in significant noncompliance</u>. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (3), (4) or (7) of this section) and shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in §§ 18-308 and 18-309;

(2) 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 §§ 18-308 and 18-309 multiplied by the

applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or requirement as defined by §§ 18-308 and 18-309 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the superintendent's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s), which may include a violation of pollution prevention alternatives, which the superintendent determines will adversely affect the operation or implementation of the local pretreatment program. (as added by Ord. #5-09, March 2009)

18-317. Enforcement procedures. (1) Administrative enforcement remedies. (a) Notification of violation. Whenever the superintendent finds that any user has violated or violating this ordinance, or a wastewater permit or order issued hereunder, the superintendent or his agent may serve upon said user written Notice Of the Violation (NOV). If required in the NOV, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the superintendent within the time frame specified, not to exceed thirty (30) days. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) Consent orders. The superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with a user responsible for the noncompliance. Such orders will include specific action to be taken by

the user to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to § 18-317(1)(d) below.

(c) Show cause hearing. The superintendent may order any user who is in violation of or causes or contributes to violation of this ordinance or wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why 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). Ten (10) days prior notice shall be given, if practical. Such notice may be served on any principal executive, general partner, corporate officer, site manager, or other person listed in pretreatment documents submitted by the user as a contact. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

Compliance order. When the superintendent finds that a (d) user has violated or continues to violate the ordinance or a permit or order issued thereunder, he may issue and order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued or penalties imposed unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated or other improvements as specified are carried out. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, disconnection of unauthorized sources of flow, and management practices. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(e) Cease and desist orders. When the superintendent finds that a user has violated or continues to violate this ordinance or any permit or order issued hereunder, the superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(i) Comply forthwith;

(ii) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and 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.

Administrative penalties. (f) Notwithstanding any other section of this ordinance, any user who is found to have violated any provision of this ordinance, or any permit or order issued hereunder, may be assessed a penalty in an amount not to exceed ten thousand dollars (\$10,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and the superintendent shall have such other collection remedies as he has to collect other service charges. Unpaid charges and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such penalties must file a request for the superintendent to reconsider the penalty within ten (10) days of being notified of the fine. Where the superintendent believes a request has merit, he shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user.

(g) Emergency suspensions. (i) The superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(ii) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The superintendent may allow the user to recommence its discharge when the endangerment has passed, unless termination proceedings are initiated against the user.

(iii) An industrial user who is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the superintendent prior to the date of the hearing described in § 18-317(1)(c).

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

(h) Revocation of permit. The superintendent may revoke the permit of any user as set forth in § 18-311.

Appeal of administrative penalties. Upon issuance of any (i) administrative order or penalty, the user shall be notified that he or she shall be entitled to a hearing upon such order or penalty. Request for such hearing must be made seven (7) days of notification of the administrative action. The hearing will be held before the city manager and shall be heard within seven (7) days of the request for hearing. At the hearing, the public works director or the director's representative shall represent the controlling authority. The controlling authority and the customer shall be entitled to present evidence relevant and material to the penalty and to examine and cross examine witnesses. He may be represented by an attorney, if the user so chooses. The city manager shall render a decision within seven (7) days upholding or overturning the administrative order or penalty. Notwithstanding the following, emergency suspensions as described in § 18-317(1)(g) are effective immediately upon issuance, and right to appeal is contingent on compliance by the user.

(2) <u>Judicial remedies</u>. If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this ordinance or any order or permit issued hereunder, the superintendent, through the city attorney, may commence an action for appropriate legal and/or equitable relief in the applicable court.

(a) Injunction relief. Whenever a user has violated or continues to violate the provisions of this ordinance or permit or order issued hereunder, the superintendent, through counsel, may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the user. The superintendent shall have such remedies to collect these fees as it has to collect other sewer service charges. The superintendent 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.

(b) Civil penalties. (i) Any user who has violated or continues to violate this ordinance or any order or permit issued hereunder, shall be liable to the superintendent for actual damages incurred by the POTW. In addition to damages, the superintendent may recover reasonable attorney's fee, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

(ii) The superintendent shall petition the court to impose, assess, and recover such sums. In determining amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(iii) 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 actions</u>. (a) Any industrial user who willfully or negligently violates any provision of this ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by penalty and imprisonment to the full extent allowed by law.

(b) Any industrial user who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this ordinance or waste water permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punishable by a penalty and imprisonment to the full extent allowed by law.

(4) <u>Affirmative defenses</u>. (a) Treatment upsets. Any industrial user who experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform the superintendent thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five (5) days. The report shall contain:

(i) A description of the upset, its cause(s) and impact on the discharger's compliance status.

(ii) 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.

(iii) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(A) An upset occurred and the user can identify the cause(s) of the upset;

(B) 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

(C) The user has submitted the following information to the superintendent within twenty-four (24) hours of becoming aware of the upset [if this information is

provided orally, a written submission must be provided within five (5) days]:

(1) A description of the indirect discharge and cause of noncompliance;

(2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(iv) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(v) 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.

(vi) 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.

(b) Treatment bypasses. (i) A bypass of the treatment system is prohibited unless all the following conditions are met:

(A) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and

(C) The industrial user properly notified the superintendent as described in § 18-317(4)(b)(ii) below.

(ii) Industrial users must provide immediate notice to the superintendent upon discovery of an unanticipated bypass. If necessary, the superintendent may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and the steps being taken to prevent its recurrence.

(iii) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a bypass must submit notice to the superintendent at least ten (10) days in advance. The superintendent may only approve the anticipated bypass if the circumstances satisfy those set forth in \$ 18-317(4)(b)(i) above.

(5) <u>Remedies nonexclusive</u>. The remedies provided for in this ordinance are not exclusive. The superintendent may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the superintendent may take other action against any user when the circumstances warrant. Further, the superintendent is empowered to take more than one (1) enforcement action against any noncompliant user. (as added by Ord. #5-09, March 2009)

18-318. <u>Industrial waste surcharge</u>. (1) <u>Surcharge based upon</u> <u>strength of wastes</u>. In the event the user discharges industrial wastes to the POTW having an average Biochemical Oxygen Demand (BOD) content in excess of three hundred (300) mg/l, and/or an average Suspended Solids (SS) content in excess of three hundred (300) mg/l, and/or an average ammonia nitrogen content in excess of thirty (30) mg/l, the user shall pay a surcharge based upon the excess strength of their wastes.

(2) <u>Costs of treatment to be reviewed annually</u>. The costs of treatment for each pound of BOD, SS, and ammonia nitrogen removed by the POTW shall be reviewed at the end of each fiscal year and appropriate surcharge rates applied to the sewer billing. These rates shall be in effect until the next annual rate review. (as added by Ord. #5-09, March 2009)

18-319. <u>Validity</u>. (1) <u>Conflict</u>. In case of conflict or inconsistency, the provisions of this ordinance shall supercede and take precedence over any other ordinance or part thereof or any other rules and regulations of the City of Oak Ridge.

(2) <u>Severability</u>. It is hereby declared the intention of city council that sections, paragraphs, sentences, clauses, and words of this ordinance are severable, and if any such section, paragraph, sentence, clause, or word be declared unconstitutional or invalid by valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses, or words since the same would have been enacted without the incorporation of the unconstitutional section, paragraph, sentence, clause or word. (as added by Ord. #5-09, March 2009)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRIC UTILITY.

CHAPTER 1

ELECTRIC UTILITY¹

SECTION

- 19-101. Right to acquire, reconstruct, improve, etc.
- 19-102. Authority to operate and maintain.
- 19-103. Rules and regulations governing distribution of power.
- 19-104. Rates and charges generally.
- 19-105. Rules, regulations and schedules of rates and charges to be part of service contract.
- 19-106. Conflicts between rate schedules and rules and regulations.
- 19-107. Installation of electric service lines.
- 19-108. Overhead installations prohibited in subdivisions with undergrouond distribution lines.

19-101. <u>**Right to acquire, reconstruct, improve, etc.</u>**. The city shall acquire and have the right to reconstruct, improve, better or extend an electric power distribution system within and without the city, or partially within or partially without the city, and to acquire by gift, purchase, or the exercise of the right of eminent domain lands or rights in lands in connection therewith. (1969 Code, § 14-1)</u>

19-102. <u>Authority to operate and maintain</u>. The city may operate and maintain the electric power distribution system for its own use and for the use and benefit of its inhabitants and for the use and benefit of persons, firms and corporations (including municipal corporations and inhabitants thereof) whose residences or places of business are located outside the territorial boundaries of the city. (1969 Code, § 14-2)

19-103. <u>Rules and regulations governing distribution of power</u>. The city, by ordinance, shall promulgate and establish rules and regulations

¹Municipal code reference Electrical code: title 12.

governing electric power distribution. These rules and regulations shall be kept on file in the city clerk's office.

Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of any rules and regulations promulgated pursuant to this section, or any ordinance approving the same, and the same are hereby recognized as continuing in full force and effect. (1969 Code, § 14-3)

19-104. <u>Rates and charges generally</u>. The city shall prescribe and collect fees, rates, and charges for electric power in accordance with applicable schedules of rates and charges which are in effect at the time the services are furnished. The schedules of rates and charges shall be promulgated and established in accordance with applicable law and in accordance with any contractual obligation existing between the city and the Tennessee Valley Authority and/or any and all other authorities, agencies and instrumentalities of the United States of America.

Nothing in this code or the ordinance adopting this code shall be deemed to affect the validity of any fees, rates or charges so established and the same are hereby recognized as continuing in full force and effect. (1969 Code, § 14-4)

19-105. <u>Rules, regulations and schedules of rates and charges to</u> <u>be part of service contract</u>. The rules and regulations and the schedules of rates and charges promulgated and established in accord with this chapter shall constitute a part of all contracts for receiving electric service from the city and shall apply to all services received from the city, whether such service is based upon the contract, agreement, signed application or otherwise. (1969 Code, § 14-5)

19-106. <u>Conflicts between rate schedules and rules and</u> <u>regulations</u>. In case of conflict between any provision of any rate schedule adopted pursuant to this chapter and the rules and regulations promulgated under this chapter, the rate schedule shall apply. (1969 Code, § 14-6)

19-107. Installation of electric service lines. (1) In all subdivisions being developed and to be developed within the city, where the subdivider or developer thereof communicates to the city manager a desire to have electrical distribution lines placed underground, the city will make such installation of distribution lines together with other equipment required for effective electric service such as transformers and protective devices; provided, however, that as a condition precedent to making such installations, the subdivider or developer shall provide and install such electric conduit, vaults, pedestals and other such items as may be required by the city manager in accordance with standards and specifications that may be promulgated from time to time.

(2) Notwithstanding the provisions of subsection (1) above, should the city manager determine that revenues resulting from the construction of a

subdivision will not support the installation, maintenance and operation of electrical facilities necessary to support the subdivision, the city manager may require monetary contributions on the part of the subdivider or developer prior to the construction of the facilities.

(3) The city manager shall propose, and from time to time revise, the electric system development policies that shall be adopted by resolution of city council. The electric system development policies shall include specific guidelines regarding cost contributions by subdividers and developers, provision street lighting and such other items as the city manager may deem appropriate. (Ord. #29-00, Dec. 2000)

19-108. Overhead installations prohibited in subdivisions with underground distribution lines. In all subdivisions where underground electrical distribution lines have been installed, overhead installations for such distribution or any other purpose will not be permitted, including in this prohibition the installation of any overhead electrical service lines. (1969 Code, § 14-8)

TITLE 20

MISCELLANEOUS

CHAPTER

1. CIVIL DEFENSE.

CHAPTER 1

CIVIL DEFENSE

SECTION

- 20-101. Definitions.
- 20-102. Office created; appointment of director.
- 20-103. Powers and duties of director--generally.
- 20-104. Powers and duties of director--prior to an emergency.
- 20-105. Powers and duties of director--during enemy-caused emergency.
- 20-106. Powers and duties of director-during natural emergency.
- 20-107. Emergency contracts, obligations, etc.
- 20-108. Immunity from liability for civil defense activities.
- 20-109. Receipt of gifts, grants or loans for civil defense purposes.

20-101. Definitions. (1) "Civil defense." As used in this chapter, the words "civil defense" shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, natural disasters such as storms, floods, fires, explosions, tornadoes, hurricanes, drought, and such other natural disasters which might occur affecting the lives, health, safety, welfare and property of the citizens of the city. These functions include, without limitation, fire-fighting services, police services, medical and health services, rescue, engineering services, air-raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility service and other functions relating to civilian protection, together with all other activities necessary or incidental to the preparation for the carrying out of the foregoing emergency functions.

(2) "Enemy-caused emergency." For the purposes of this chapter, the term "enemy-caused emergency" means any state of emergency caused by actual or impending attack, sabotage or other hostile action, anywhere within the United States and involving imminent peril to life and property in the city. Such emergency shall be deemed to exist only when the mayor of the city, or the mayor, acting through the city manager, shall so declare by public proclamation. Such emergency shall be deemed to continue to exist until the mayor shall declare its termination by public proclamation or until the city council shall declare its termination by resolution.

(3) "Natural emergency." As used in this chapter, the term "natural emergency" means any state of emergency caused by any actual or impending flood, drought, fire, hurricane, earthquake, storm or other catastrophe in or near the city, and involving imminent peril to lives and property in the city. Such emergency shall be deemed to exist and to be terminated under the same conditions as prescribed for an "enemy-caused emergency." (1969 Code, § 11-1)

20-102. <u>Office created; appointment of director</u>. The city manager is hereby authorized and directed to create a city civil defense office and to appoint a director of civil defense. (1969 Code, § 11-2)

20-103. <u>Powers and duties of director--generally</u>. The director of civil defense shall have general direction and control of the office of civil defense and, subject to the direction and control of the city manager, shall have the following functions and duties:

(1) To prepare a civil defense operating plan for the city conforming to the state and federal civil defense agencies' plan and program, to be integrated and coordinated so as to control and cooperate with civil defense organizations of the city for the accomplishment of the purposes of this chapter.

(2) To direct, coordinate and cooperate between departments, services and staff of the civil defense organization of the city.

(3) To represent the civil defense organization in all activities, which include public and private agencies operating in the field of civil defense and disaster. (1969 Code, § 11-3)

20-104. <u>Powers and duties of director--prior to an emergency</u>. Prior to an emergency as defined in this chapter, and subject to the direction and control of the city manager, the director of civil defense shall have the following powers:

(1) To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this chapter within the limits of the authority conferred upon him or her herein, with the consideration to be given to the plans and powers of the federal government, the government of Tennessee, and other public and private agencies and organizations empowered to act in either enemy-caused emergencies or natural emergencies, or both.

(2) To prepare comprehensive plans for the civil defense of the city in both enemy-caused and natural emergencies, such plans and programs to be integrated and coordinated with the plans and programs of the federal government, of the government of Tennessee, and of other public and private agencies and organizations empowered to act in either enemy-caused or natural emergencies or both.

(3) To establish, within the limits of funds available, a public warning system, composed of sirens, horns, or other acceptable warning devices.

(4) To establish and carry out recruitment and training programs as may be necessary to develop an adequate, qualified civil defense volunteer corps.

(5) To conduct drills, exercises and similar programs as may be necessary to develop a well-trained, alert, fully prepared civil defense organization.

(6) To make such studies and surveys of the industries, resources and facilities of this city as he or she deems necessary to ascertain its capabilities for civil defense, and plan for the most efficient emergency use therefor.

(7) On behalf of the city, to enter into mutual-aid arrangements with surrounding communities, subject to the approval of the city council.

(8) To delegate any administrative authority vested in him or her under the chapter, and to provide for the subdelegations of any such authority.

(9) To take any other action proper and lawful under his or her authority to prepare for either an enemy-caused or a natural emergency. (1969 Code, § 11-4)

20-105. Powers and duties of director--during enemy-caused emergency. In the event of any actual enemy-caused emergency proclaimed as provided in § 20-101, the director of civil defense, with the approval of the mayor or with the approval of the mayor acting through the city manager, may exercise, during such emergency, the power to enforce all rules and regulations relating to civil defense and acting under the authority of this chapter or under the authority of the mayor or the city manager as an agent of the Governor of Tennessee, may take control of all means of transportation and communications. all stocks of fuel, food, clothing, medicines and supplies and all facilities including buildings and plants and exercise all power necessary to secure the safety and protection of the civilian population. In exercising such powers, he or she shall be guided by regulations and orders issued by the federal government and the Governor of Tennessee relating to civil defense and shall take no action contrary to orders which may be issued by the governor under the powers conferred upon him or her by Tennessee Code Annotated, § 7-601, et seq. (1969 Code, § 11-5)

20-106. <u>Powers and duties of director--during natural emergency</u>. In the event of any natural emergency proclaimed as provided in § 20-101, the director of civil defense, with the approval of the mayor or with the approval of the mayor acting through the city manager and acting under his or her instructions, shall coordinate in every way the activities of the civil defense organization. He or she is specifically charged in such emergency with the collection, evacuation and dissemination of information to all agencies participating in the city's civil defense organization, or cooperating in any such emergency. As director, he or she shall have the power to recommend appropriate action, but he or she shall not otherwise exercise control over the participating agency. He or she shall also recommend to the mayor and the city manager the allocation of any funds received from the federal or state government or from any source to alleviate distress and to aid in restoring normal conditions. (1969 Code, § 11-6)

20-107. <u>Emergency contracts, obligations, etc</u>. In carrying out the provisions of this chapter, the city, upon the happening of any disaster as described in this chapter, shall have the power to enter into contract and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property and providing emergency assistance to the victims of such disaster. The city is authorized to exercise the powers vested under this section and elsewhere in this chapter in the light of exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by ordinance or statute (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials and levying of taxes and the appropriations and expenditures of public funds. (1969 Code, \S 11-7)

20-108. <u>Immunity from liability for civil defense activities</u>. As provided in <u>Tennessee Code Annotated</u>, § 7-630, and in accordance therewith, neither the city nor the agents or representatives of the city shall be liable for personal injury or property damage sustained by any person appointed or acting as a civil defense worker or member of any agency engaged in civil defense activity. The right of any person to receive benefits of compensation to which he or she might otherwise be entitled to under workmen's compensation law or any pension law or any act of Congress, shall not be affected by this section. (1969 Code, § 11-8)</u>

20-109. <u>Receipt of gifts, grants or loans for civil defense purposes</u>. Whenever the federal government or the State of Tennessee or any person shall offer to the city any services, equipment, supplies, materials, or any funds by way of gift, grant or loan for purposes of civil defense, the mayor may accept such offer and may authorize the city manager to receive the same subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. (1969 Code, § 11-9)

TITLE 21

CODE OF ETHICS

CHAPTER 1

CODE OF ETHICS

SECTION

21-101. Applicability.

- 21-102. Definition of "personal interest."
- 21-103. Disclosure of personal interest by official with vote.
- 21-104. Disclosure of personal interest in nonvoting matters.
- 21-105. Acceptance of gratuities, etc.
- 21-106. Use of information.
- 21-107. Use of city time, facilities, etc.
- 21-108. Use of position or authority.
- 21-109. Outside employment.
- 21-110. Ethics complaints.
- 21-111. Violations.

21-101. <u>Applicability</u>. This chapter is the code of ethics for personnel of the city. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the city, including but not limited to the Oak Ridge City Schools and its Board of Education. (as added by Ord. #7-07, May 2007)

21-102. <u>Definition of "personal interest</u>." The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) The word "censure" means an expression of severe criticism or reproach.

(2) The word "complaint" means a written, signed document setting forth the reason(s) for belief of an ethics violation. A complaint must contain the original signature of the complaining party and such person's contact information including but not limited to full name, address, and telephone number. Comments sent by email, facsimile or other electronic means are not original documents and shall not constitute a valid complaint.

(3) The words "employment interest" includes 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.

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(4) The word "gift" means the transfer of anything of economic value, regardless of form, without reasonable consideration. "Gift" may include a subscription, membership, loan, forgiveness of debt, advance or deposit of money or anything of value, conveyed or transferred. "Gift" does not include political campaign contributions which are solicited or accepted in accordance with applicable laws and regulations.

(5) The word "official" means the members of city council, as well as members appointed thereby to city boards, commissions, committees, authorities, corporations or instrumentalities established by law or by this code. "Official" also includes the city judge.

(6) The words "personal interest" mean: (a) Any financial, ownership, or employment interest in the subject of a vote by a city 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) (including natural, step or adoptive, as well as inlaws), grandparent(s), sibling(s) (including natural, step or adoptive), child(ren) (including natural, step or adoptive, as well as grandchildren and inlaws), and any other individual residing within the employee's household who is a legal dependent of the employee or official for income tax purposes.

In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #7-07, May 2007)

21-103. <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 himself or herself from voting on the measure. (as added by Ord. #7-07, May 2007)

21-104. <u>Disclosure of personal interest in nonvoting 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 discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the city clerk. Copies of such forms filed with the city clerk shall be provided to the city manager and, in the case of an employee, filed in the employee's personnel file. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse

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himself or herself from the exercise of discretion in the matter. (as added by Ord. #7-07, May 2007)

21-105. <u>Acceptance of gratuities, etc</u>. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the city:

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

(2) That might reasonably be interpreted as an attempt to influence his or her action, or reward him or her for past action, in executing city business.

This section does not apply to those items that are specifically covered by a separate policy and/or procedure established by the city manager pertaining to gifts and gratuities. (as added by Ord. #7-07, May 2007)

21-106. <u>Use of information</u>. (1) An official or employee may not disclose any information obtained in his or her 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 or her official capacity or position of employment with the intent to result in financial gain for himself or herself or any other person or entity. (as added by Ord. #7-07, May 2007)

21-107. <u>Use of city time, facilities, etc</u>. (1) An official or employee may not use or authorize the use of city time, facilities, equipment or supplies for private gain or advantage to himself or herself.

(2) An official or employee may not use or authorize the use of city 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 city manager or city council to be in the best interests of the city or as otherwise permitted by law. (as added by Ord. #7-07, May 2007)

21-108. <u>Use of position of authority</u>. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the city; provided, however, that this section shall not apply to reasonable amounts paid for:

(a) Food, transportation, lodging and other travel expenses incurred in accordance with the city's travel policy.

(b) Dues, registrations, meals and similar expenses incurred in conjunction with membership or participation in a professional or community organization to which the official or employee belongs in his or her official capacity. (c) Meals purchased in the course of an official business meeting conducted on the city's behalf.

(2) An official or employee may not use or attempt to use his or her position to secure any privilege or exemption for himself or herself or others that is not authorized by the charter, general law, or ordinance or policy of the city. No officer shall intimidate, threaten, coerce, discriminate against, or give the appearance of or attempt to intimidate, threaten, coerce or discriminate against any employee for the purpose of interfering with that person's freedom of choice in the regular discharge of his or her official duties.

(3) No official or employee shall provide commercial or advertising endorsements in such a manner as to convey the city's approval of any private for-profit enterprise; provided, however, that an official or employee may respond to inquiries seeking information as to the city's experience with a vendor or other private enterprise. (as added by Ord. #7-07, May 2007)

21-109. <u>**Outside employment**</u>. 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 city's charter or any ordinance or policy. This section does not negate the requirement for employees to obtain prior approval before beginning any outside employment. (as added by Ord. #7-07, May 2007)

21-110. <u>Ethics complaints</u>. (1) The city attorney is designated as the ethics officer of the city. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

(b) The city attorney may request that the city manager or city council hire another attorney, individual, or entity to act as ethics officer when the city attorney 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 the city attorney, the city manager, or a member of city council, city council shall take the following action:

(i) Determine whether the complaint has merit and warrants further investigation, or determine if the complaint is frivolous and without merit.

(ii) If city council determines the complaint has merit and warrants further investigation, city council shall direct that the complaint be investigated by an independent person, group of persons, or firm chosen by the city manager and city attorney when the complaint is against a member of city council, and chosen by city council when the complaint is against the city manager or the city attorney.

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #7-07, May 2007)

21-111. <u>Violations</u>. An elected official or appointed member of a separate city board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the city's charter or other applicable law and in addition is subject to censure by city council. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #7-07, May 2007)

<u>TITLE</u>

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF OAK RIDGE, TENNESSEE.

WHEREAS, some of the ordinances of the City of Oak Ridge are obsolete; and

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

WHEREAS, the Council of the City of Oak Ridge, 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 "Oak Ridge Municipal Code."

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

<u>Section 1.</u> <u>Ordinances codified</u>. 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 "Oak Ridge Municipal Code," hereinafter referred to as the "municipal code."

<u>Section 2</u>. <u>Ordinances repealed</u>. 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.

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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 fixing the salary of any city officer or employee or the amount of any bond required of any officer, employee or agent of the city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing 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 assessing taxes 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 ordinance which by its own terms, is effective only for a stated or limited time; any ordinance approving or amending the rules and regulations of any board, commission, department or other agency of the city; 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. <u>Continuation of existing provisions</u>. 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 less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) and costs for each separate violation, or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment as provided in § 1-107 of the code; 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 "it shall be a civil offense."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

<u>Section 6.</u> <u>Severability clause</u>. 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. Any and all additions and amendments to the code, when passed in such form as to indicate the intention of the city council to make the same a part thereof, shall be deemed to be incorporated in the code so that reference to the Oak Ridge Municipal Code shall be understood and intended to include such additions and amendments. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and

¹State law reference

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For authority to allow deferred payment of fines, or payment by installments, see <u>Tennessee Code</u> <u>Annotated</u>, § 40-24-101 <u>et seq</u>.

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.

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. Three (3) copies of the code shall be kept on file in the office of the city clerk, preserved in looseleaf form or in such other form as the city council may consider most expedient. It shall be the express duty of the city clerk, or someone authorized by the city clerk, to insert in such copies, in their designated places, all amendments or ordinances which indicate the intention of the city council to make the same a part of the code when the same have been printed or reprinted in page form, and to extract from such copies all provisions which may be from time to time repealed by the city council. Such copies of the code shall be available for all persons desiring to examine the same.

<u>Section 10</u>. <u>Unlawful changes to code</u>. It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of such code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the City of Oak Ridge to be misrepresented thereby. Any person violating this section shall be punished as provided in section 5 of this ordinance.

Section 11. Date of effect. This ordinance shall take effect ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

APPROVED AS TO FORM AND LEGALITY:

<u>/s/ Kenneth R. Krushenski</u> City Attorney

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<u>/s/ David R. Bradshaw</u> Mayor

<u>/s/ Jacquelyn J. Bernard</u> City Clerk

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