

**THE  
OAKLAND  
MUNICIPAL  
CODE**

Prepared by the

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

in cooperation with the

**TENNESSEE MUNICIPAL LEAGUE**

November 1999

Change 2, June 16, 2016

**TOWN OF OAKLAND, TENNESSEE**

**MAYOR**

Chris Goodman

**ALDERMEN**

Karl Chambliss

Billy Ray Morris

Kelly Rector

Kenneth Carter

**CITY RECORDER**

Bob Petty

## PREFACE

The Oakland Municipal Code contains the codification and revision of the ordinances of the Town of Oakland, 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 town's ordinance book or the city clerk for a comprehensive and up to date review of the town's ordinances.

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

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

(1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).

(2) That one copy of every ordinance adopted by the town is kept in a separate ordinance book and forwarded to MTAS annually.

(3) That the town 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 Sandy Selvage, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini  
Codification Specialist

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

SECTION 12. Be it further enacted, that any action of the Board having a regulatory or penal effect, awarding franchises, or required to be done by ordinance under this Charter or the general laws of the state, shall be done only by ordinance. Other actions may be accomplished by resolutions or motions. Ordinances and resolutions shall be in written form before being introduced. The enacting clause of ordinances shall be "Be it ordained by the Board of Mayor and Aldermen of the Town of Oakland:". Every ordinance must be approved on two (2) readings and there shall be no more than one (1) reading on any one (1) day. A majority of the Board of Mayor and Aldermen shall vote in favor of an ordinance or it shall be deemed as failed. An ordinance may receive first reading upon its introduction. Ordinances shall take effect upon final reading, adoption and being signed by the Mayor unless a different effective date is designated in the ordinance.

Ordinances shall be identified with a two (2) part numeration. The first part shall consist of the two (2) digits representing the last two (2) digits of the year the ordinance was introduced. The second part shall be the number of its order of introduction that year.

**TITLE 1**

**GENERAL ADMINISTRATION<sup>1</sup>**

**CHAPTER**

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. CLERK/RECORDER.
4. CODE OF ETHICS.
5. MUNICIPAL ELECTIONS.

**CHAPTER 1**

**BOARD OF MAYOR AND ALDERMEN<sup>2</sup>**

**SECTION**

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Compensation of aldermen.
- 1-105. Agenda.
- 1-106. Proposed legislation.

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<sup>1</sup>Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

<sup>2</sup>Charter references

Compensation: § 7.

Election: § 5.

Oath: § 5.

Powers: § 7.

Quorum: § 7.

Term: § 5.

Vacancies: § 10.

Vice Mayor: § 9.

**1-101. Time and place of regular meetings.** The board of mayor and aldermen shall hold regular monthly meetings at 7:30 P.M. on the third Thursday of each month at the city hall.

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

- (1) Call to order by the mayor.
- (2) Roll call by the clerk/recorder.
- (3) Reading of minutes of the previous meeting by the clerk/recorder, and approval or correction.
- (4) Citizens comments.
- (5) Communications from the mayor.
- (6) Reports from committees, members of the board of mayor and aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment.

**1-103. General rules of order.** The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, 1990 (9th) Edition, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code.

**1-104. Compensation of aldermen.** The compensation for each alderman elected subsequent to November 2, 2004 shall be \$200.00 per meeting per alderman, \$300.00 vice mayor. (as added by Ord. #04-09-01, Oct. 2004)

**1-105. Agenda.** (1) The mayor controls the creation of the agenda as the presiding officer at board meetings.

(2) The agenda for a regular meeting shall be created by the mayor and published to the board members no later than the Thursday preceding the regular meeting, 5:00 P.M. Central Time.

(3) The mayor may designate, in writing, a city officer and/or employee authorized to assemble and publish the agenda.

(4) Any board member may have included in the agenda any item of town business ("item"), provided submission is timely.

(5) "Item" may include any item of town business other than drafting a resolution or ordinance.

(6) A submission of an agenda item as set forth in § 1-105(2) is timely if it is in writing and received by the mayor and/or designee by the Tuesday preceding the regular meeting, 5:00 P.M. Central Time.

(7) If timely received, then the agenda shall set for the item's substance, in the agenda section for board member reports, and the written submission shall be attached to the agenda as an exhibit.

(8) The item then shall be discussed, at the board's regular meeting, during the board member reports period.

(9) Discussion of the item shall be governed by Robert's Rules of Order. (as added by Ord. #15-4, April 2015)

**1-106. Proposed legislation.** (1) A board member may submit a request for drafting and consideration of proposed legislation, either a resolution or ordinance, through the procedure set forth in § 1-105 above as items to be included on the agenda.

(2) Upon conclusion of the board discussion of the proposed legislation, a vote shall be taken, consistent with the board's practice of conducting votes, on whether the mayor and or its designee shall draft a proposed resolution or ordinance.

(3) A majority of the board shall be required to have the proposed resolution or ordinance drafted.

(4) If drafting is approved, then the resolution or ordinance shall be included on the next regular meeting's agenda under "new business" and the proposed legislation shall be attached to the agenda as an exhibit thereto. (as added by Ord. #15-4, April 2015)

## CHAPTER 2

### MAYOR<sup>1</sup>

#### SECTION

- 1-201. Generally supervises town's affairs.
- 1-202. Executes town's contracts.
- 1-203. Compensation.

**1-201. Generally supervises town's affairs.** The mayor shall have general supervision of all town affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities.

**1-202. Executes town's contracts.** The mayor shall execute all contracts as authorized by the board of mayor and aldermen.

**1-203. Compensation.** The compensation for the mayor elected subsequent to November 2, 2004 shall be \$54,000.00. (as added by Ord. #04-09-01, Oct. 2004)

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<sup>1</sup>Charter references

Compensation: § 7.

Administrative duties: § 14.

Election: § 5.

Presiding officer: § 8.

Term: § 5.

Vacancy: § 10.

### CHAPTER 3

#### CLERK/RECORDER<sup>1</sup>

##### SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

**1-301. To be bonded.** The clerk/recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the board of mayor and aldermen.

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

**1-303. To perform general administrative duties, etc.** The clerk/recorder shall perform all administrative duties for the board of mayor and aldermen and for the town which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. The clerk/recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the town shall provide.

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<sup>1</sup>Charter reference  
Duties: § 15.

## CHAPTER 4

### CODE OF ETHICS

#### SECTION

- 1-401. Applicability.
- 1-402. Definition of "personal interest."
- 1-403. Disclosure of personal interest by official with vote.
- 1-404. Disclosure of personal interest in nonvoting matters.
- 1-405. Acceptance of gratuities, etc.
- 1-406. Use of information.
- 1-407. Use of municipal time, facilities, etc.
- 1-408. Use of position of authority.
- 1-409. Outside employment.
- 1-410. Ethics complaints.
- 1-411. Violations.

**1-401. Applicability.** This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #07.03.02, April 2007)

**1-402. Definition of "personal interest."** (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #07.03.02, April 2007)

**1-403. Disclosure of personal interest by official with vote.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #07.03.02, April 2007)

**1-404. Disclosure of personal interest in nonvoting matters.** An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #07.03.02, April 2007)

**1-405. Acceptance of gratuities, etc.** An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #07.03.02, April 2007)

**1-406. Use of information.** (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #07.03.02, April 2007)

**1-407. Use of municipal time, facilities, etc.** (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #07.03.02, April 2007)

**1-408. Use of position or authority.** (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #07.03.02, April 2007)

**1-409. Outside employment.** An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (as added by Ord. #07.03.02, April 2007)

**1-410. Ethics complaints.** (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

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

civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #07.03.02, April 2007)

**1-411. Violations.** An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #07.03.02, April 2007)

## CHAPTER 5

### MUNICIPAL ELECTIONS

#### SECTION

1-501. Nonresident property owner voting.

**1-501. Nonresident property owner voting.** All persons residing outside the corporate limits of the Town of Oakland who own not less than an undivided one-half (1/2) interest in taxable real estate located inside the corporate limits of the Town of Oakland and who are entitled to vote in the Town of Oakland municipal elections pursuant to the charter of the Town of Oakland, section 2, and other general law requirements, shall cast their ballot in the Town of Oakland municipal elections by absentee mail ballots (as added by Ord. #13-21, Dec. 2013)

## TITLE 2

### BOARDS AND COMMISSIONS, ETC.

#### CHAPTER

1. PARKS AND RECREATION ADVISORY BOARD.
2. LIBRARY BOARD.
3. DESIGN REVIEW COMMISSION.

#### CHAPTER 1

### PARKS AND RECREATION ADVISORY BOARD

#### SECTION

- 2-101. Creation.
- 2-102. Membership.
- 2-103. Officers, meetings, quorum, and bylaws.
- 2-104. Authority--powers and duties.
- 2-105. Initiation of policy recommendations.

**2-101. Creation.** There is hereby created the Oakland Recreation Advisory Board, hereinafter referred to as the board, to serve in an advisory capacity to the board of mayor and aldermen and the parks and recreation director, hereinafter referred to as director, in matters enumerated in this chapter. (as added by Ord. #02.08.01, Sept. 2002)

**2-102. Membership.** (1) Criteria. The selection of board members will be made from individuals who have an interest in park, recreational, social and cultural activities and in the various park and recreational facilities, as may be evidenced by their training, experience and/or actions, and who reside within Oakland, Tennessee. Membership of the board should include, if possible, both casual and organized users of parks and recreation facilities and programs. Representatives of the board should be selected from areas as evenly dispersed geographically as possible.

(2) Composition. The board will consist of five people and preferably would include both male and female members and a youth representative who may be less than 18 years of age.

(3) Terms. A full term of office for each board member will be four (4) years. Terms of office shall begin on January 1 of the year in which the appointment is made and expire December 31 of the fourth year thereafter. The initial appointments to the board will be made in such a way that no more than two terms will expire in the same year and such terms shall be staggered to achieve this result.

No person may serve on the board more than two consecutive four year terms. The board of mayor and aldermen representative may serve successive one year periods.

The term of office for members appointed to fill expired terms will be a maximum term not to exceed four years. It is intended that no more than two terms will expire in the same year and such terms shall be staggered to achieve this result.

(4) Appointment. Members of the board of mayor and aldermen representative will be appointed by the mayor subject to confirmation by a majority vote of the board of aldermen. Board members will be selected without regard to political affiliations and will serve without compensation, except for reimbursement of actual expenditures duly authorized by the board of mayor and aldermen. Appointments to fill an unexpired term will be for the remainder of that term, after which the board of mayor and aldermen may consider a full term appointment.

(5) Removal. Members of the board may be removed by the mayor, with concurrence of the board of aldermen, for neglect of duty, conflict of interest, malfeasance in office, or other just cause, or for unexcused absence from more than three consecutive regular meetings. The decision of the board of aldermen will be final and there will be no appeal therefrom. Board members who are unable to attend regular meetings are expected to tender their resignation.

(6) Vacancies. Vacancies created by causes other than an expiration of term shall be filled for the remainder of the term in the same manner as otherwise provided in this section. (as added by Ord. #02.08.01, Sept. 2002, and amended by Ord. #08.05.03, June 2008)

**2-103. Officers, meetings, quorum, and bylaws.** (1) Officers. The board will, during the first board meeting in January, annually select from its members a chair-person to serve for a one year period, or until a successor is elected. The chair-person will preside at all meetings; preserve order and decorum, enforce the rules and regulations of the board, sign all letters and documents as authorized by the board and as prescribed by law, and will otherwise perform the duties devolving upon a presiding officer. The board will also select a vice-chair-person. The board will select a secretary who will assume charge of all records of the board and who will keep accurate and complete minutes of all meetings thereof. The secretary need not be a member of the board.

(2) Meetings. The board will determine a regular meeting schedule (time, place, and frequency), as necessary, but not less than once each month, unless the chair-person determines no meeting is necessary. Special board meetings may be held as often as deemed necessary by the board. All meetings will be open to the public. Accurate minutes will be kept of all meetings and

shall be made available to the public. A copy thereof will be transmitted to the board of mayor and aldermen.

(3) Quorum. Three members of the board will constitute a quorum for the transaction of business.

(4) Bylaws. The board will adopt bylaws for the conduct of its business, a copy of which will be kept on file in the city recorder's office. (as added by Ord. #02.08.01, Sept. 2002)

**2-104. Authority--powers and duties.** (1) The board will have only such powers and authority as may be granted to it by the board of mayor and aldermen. The board shall have no final authority over the adoption of policy nor the administration of the parks and recreation department.

(2) The board will act at all times in an advisory capacity to the board of mayor and aldermen and the director, and will have no direct power. It will interpret community programs, facilities and needs, survey public opinion, prepare studies and reports as requested by the board of mayor and aldermen, and make recommendation on subjects as may be requested from time to time by the board of mayor and alderman.

(3) The board will serve as a liaison between citizens, the parks and recreation department, and the board of mayor and alderman. The board is subject to rules and regulations in the performance of their duties and responsibilities as prescribed by city ordinance. (as added by Ord. #02.08.01, Sept. 2002)

**2-105. Initiation of policy recommendations.** (1) The board of mayor and alderman will be the initiator of requests to study city policy regarding parks and recreation facilities and programs.

(2) Requests of the board to study and/or make recommendations on administrative policy will be initiated by the director or the board of mayor and alderman.

(3) The board may from time to time initiate study and recommendations by first submitting the topics to the board of mayor and alderman. When approval of the board of mayor and alderman is received, the board will commence its work on the approved topics. (as added by Ord. #02.08.01, Sept. 2002)

## CHAPTER 2

### LIBRARY BOARD

#### SECTION

2-201. Library established.

2-202. Library board created.

2-203. Appointment and tenure of members; filling vacancies

2-204. Removal from office; filling of vacancies.

2-205. Powers and duties of library board.

2-206. Use of library.

**2-201. Library established.** Pursuant to Tennessee Code Annotated, § 10-3-101 there is hereby established a free public library for the use of the residents and inhabitants of the town: However, the library board may, in its discretion, extend the privilege and facilities of the library to persons residing outside the city upon such terms as it may deem proper. (as added by Ord. #08.06.01, July 2008)

**2-202. Library board created.** There is hereby created a library board which shall consist of seven (7) members, who shall serve without compensation. (as added by Ord. #08.06.01, July 2008)

**2-203. Appointment and tenure of members; filling vacancies.** Three (3) members of the library board shall be appointed by the board of mayor and aldermen for one (1) year, two (2) for two (2) years and two (2) for three (3) years, and their successors for a term of three (3) years. Not more than one (1) official each of the county and of the town governing bodies shall serve on this board. Not more than five (5) of the members shall be of the same sex. Vacancies in the library board, occurring otherwise than by normal expiration of a term, shall be filled by the board of mayor and aldermen for the unexpired portion of the term. (as added by Ord. #08.06.01, July 2008)

**2-204. Removal from office; filling of vacancies.** Any member of the library board may be removed from office by majority vote of the board of mayor and aldermen for failing to attend meetings of the board, for any other neglect of duties as such member or for any misconduct in office. (as added by Ord. #08.06.01, July 2008)

**2-205. Powers and duties of library board.** The members of the library board shall organize by electing officers and adopting bylaws and regulations. The board has the power to direct all the affairs of the library, including appointment of a librarian who shall direct the internal affairs of the library, and such assistants or employees as may be necessary. Such board may

make and enforce rules and regulations and establish branches of travel service at its discretion. Such board may receive donations, devises and bequests to be used by it directly for library purposes. The library board shall furnish to the state library agency such statistics and information as may be required, and shall make annual reports to the board of mayor and aldermen. Annually, the library board shall submit a budget in conformance with the town charter to the town recorder who shall forward same to the board of mayor and aldermen. All city tax funds and appropriate fees for library purposes, whether raised by bonds or taxation, shall be held by the town recorder or appropriate designee. Such funds may be disbursed when properly drawn upon by vouchers or requisitions. Proceeds from the sale of surplus books by the town library may be credited to such special fund in the discretion of the library board. All library accounts of every character and kind shall be audited annually by or under the supervision and direction of the board of mayor and aldermen. The library board shall only have those powers and authority as granted to it under Tennessee Code Annotated, § 10-3-101 et seq., and such other authority, power and duties as the library board may be granted by the board of mayor and aldermen. (as added by Ord. #08.06.01, July 2008)

**2-206. Use of library.** The library board shall have power to make and enforce rules providing penalties for loss of or injury to library property. (as added by Ord. #08.06.01, July 2008)

## CHAPTER 3

### DESIGN REVIEW COMMISSION

#### SECTION

- 2-301. Creation.
- 2-302. Membership.
- 2-303. Powers.
- 2-304. Applications.
- 2-305. Due consideration.
- 2-306. Permits.
- 2-307. Appeal.

**2-301. Creation.** There is hereby created the Oakland Design Review Commission ("DRC"), which shall have authority over the design and appearance of improvements to real property in Oakland. (as added by Ord. #16-3, March 2016)

**2-302. Membership.** The Oakland Municipal Planning Commission shall be designated as the DRC as per Tennessee Code Annotated, § 6-54-133. (as added by Ord. #16-3, March 2016)

**2-203. Powers.** The DRC shall have the authority to:

- (1) Develop general guidelines for the exterior appearance of nonresidential property, multiple family residential property, and any entrance to a nonresidential development within Oakland ("regulated improvements");
- (2) Develop review procedures for construction of regulated improvements; and
- (3) Apply such procedures in either approving or disapproving proposals for regulated improvements. The DRC shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated. (as added by Ord. #16-3, March 2016)

**2-204. Applications.** Every application for a building permit or other permission to construct a regulated improvement shall be submitted to the Oakland Planning Department ("planning department"), shall include design review forms provided by the planning department and shall include whatever information the DRC and/or the planning department requires. The planning department shall conduct an administrative review of the application and then forward same, along with comments and/or recommendations, to the DRC for its review at its next convened meeting ("DRC package"). (as added by Ord. #16-3, March 2016)

**2-205. Due consideration.** The DRC shall review the DRC package and any other evidence that may be pertinent or requested, at a convened meeting and determine whether the regulated improvement conforms to the general guidelines the DRC promulgated. The applicant or its designee shall appear at the DRC review meeting. The DRC shall:

(1) Approve the application if the proposed regulated improvement will conform with the DRC's general guidelines and is otherwise conducive to the proper development of Oakland; or

(2) Disapprove the application, with written comments and recommendations, if the proposed regulated improvement does not conform with its promulgated guidelines or is otherwise not conducive to the proper development of Oakland.

If disapproved, the applicant may re-submit its application incorporating the DRC's comments and recommendations, pursuant to § 2-204 above. (as added by Ord. #16-3, March 2016)

**2-206. Permits.** If the DRC approves the application, then the planning department shall issue the building permit. If the DRC rejects the application, then the planning department shall not issue the building permit. The planning department shall nevertheless accept a revised application incorporating any comments and recommendations, treating same as a new application under § 2-204 to be reviewed pursuant to the guidelines hereunder. (as added by Ord. #16-3, March 2016)

**2-207. Appeal.** If the applicant is dissatisfied with any DRC action regarding its application, it may, no later than thirty (30) days after the action, appeal to the board of mayor and aldermen ("board") to review the DRC's action. The board shall review the DRC's action not more than sixty (60) days after the appeal is taken. The board's review shall be upon the record submitted to, and reviewed by, the DRC, which record shall be assembled and transmitted to the board by the planning department. The board, at a hearing, shall consider the record and any other evidence that may be pertinent or requested and shall either approve or disapprove the application, on appeal. If the board approves, then the planning department shall issue the building permit. (as added by Ord. #16-3, March 2016)

**TITLE 3**

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

**CHAPTER**

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

**CHAPTER 1**

**TOWN JUDGE**

**SECTION**

3-101. Town judge.

**3-101. Town judge.** The officer designated by the charter to handle judicial matters within the municipality shall preside over the town court and shall be known as the town judge.

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<sup>1</sup>Charter reference: § 17.

## CHAPTER 2

### COURT ADMINISTRATION

#### SECTION

3-201. Maintenance of docket.

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

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

3-204. Disturbance of proceedings.

3-205. Trial and disposition of cases.

**3-201. Maintenance of docket.** The town judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines and costs imposed and whether collected; whether committed to workhouse; and all other information that may be relevant.

**3-202. Imposition of fines, penalties, and costs.** All fines, penalties and costs shall be imposed and recorded by the municipal judge on the municipal court docket in open court.

In all cases heard or determined by him, the municipal judge shall tax an amount of one hundred ten dollars (\$110.00) for court costs. (as amended by Ord. #04.06.01, July 2004, Ord. #09.03.01, April 2009, and Ord #11.05.03, June 2011)

**3-203. Disposition and report of fines, penalties, and costs.** All funds coming into the hands of the town judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the town. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year.

**3-204. Disturbance of proceedings.** It shall be unlawful for any person to create any disturbance of any trial before the town court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever.

**3-205. Trial and disposition of cases.** Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the town judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court.

## CHAPTER 3

### WARRANTS, SUMMONSES AND SUBPOENAS

#### SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

**3-301. Issuance of arrest warrants.**<sup>1</sup> The town judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances.

**3-302. Issuance of summonses.** When a complaint of an alleged ordinance violation is made to the town judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender personally to appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal.

**3-303. Issuance of subpoenas.** The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith.

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<sup>1</sup>State law reference

For authority to issue warrants, see Tennessee Code Annotated, title 40, chapter 6.

## CHAPTER 4

### BONDS AND APPEALS

#### SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

3-403. Bond amounts, conditions, and forms.

**3-401. Appearance bonds authorized.** When the town judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the town judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody.

**3-402. Appeals.** Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.<sup>1</sup>

**3-403. Bond amounts, conditions, and forms.** An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 27-5-101.

**TITLE 4**

**MUNICIPAL PERSONNEL**

**CHAPTER**

1. SOCIAL SECURITY.
2. VACATION AND SICK LEAVE.
3. PERSONNEL REGULATIONS.
4. TRAVEL REIMBURSEMENT REGULATIONS.
5. INFECTIOUS DISEASE POLICY.
6. TITLE VI COMPLIANCE.

**CHAPTER 1**

**SOCIAL SECURITY**

**SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.

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

**4-102. Necessary agreements to be executed.** The mayor is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section.

**4-103. Withholdings from salaries or wages.** Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations.

**4-104. Appropriations for employer's contributions.** There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations.

**4-105. Records and reports to be made.** The recorder shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

## CHAPTER 2

### VACATION AND SICK LEAVE

#### SECTION

- 4-201. Applicability of chapter.
- 4-202. Vacation leave.
- 4-203. Sick leave.
- 4-204. Leave records.

**4-201. Applicability of chapter.** This chapter shall apply to all full-time municipal officers and employees.

**4-202. Vacation leave.** Vacation leave shall be in accordance with the employee handbook adopted by the board of mayor and aldermen.

**4-203. Sick leave.** Sick leave shall be in accordance with the employee handbook adopted by the board of mayor and aldermen.

**4-204. Leave records.** The mayor shall cause to be kept, for each officer and employee, a record currently up to date at all time showing credit earned and leave taken under this chapter.

## CHAPTER 3

### PERSONNEL REGULATIONS

#### SECTION

- 4-301. Business dealings.
- 4-302. Acceptance of gratuities.
- 4-303. Outside employment.
- 4-304. Political activity.
- 4-305. Use of municipal time, facilities, etc.
- 4-306. Use of position.
- 4-307. Strikes and unions.

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

**4-302. Acceptance of gratuities.** No town officer or employee shall accept any money or other consideration or favor from anyone other than the town for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to town business.

**4-303. Outside employment.** No full-time officer or employee of the municipality shall accept any outside employment without written authorization from the mayor after approval by the board of mayor and aldermen. The mayor shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality.

**4-304. Political activity.** Municipal officers and employees shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities; provided the town is not required to pay the employee's salary for work not performed for the town. Provided, however, municipal employees shall not be qualified to run for elected office in the town council. This restriction shall not apply to elective officials.

**4-305. Use of municipal time, facilities, etc.** No town officer or employee shall use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group. Provided, however, that this prohibition shall not apply where the governing body has authorized the use of such time, facilities, equipment, or supplies, and the municipality is paid at such rates as are normally charged by private sources for comparable services.

**4-306. Use of position.** No town officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the town, nor shall he otherwise use or attempt to use his position to secure unwarranted privileges or exemptions for himself or others.

**4-307. Strikes and unions.** No town officer or employee shall participate in any strike against the town, nor shall he join, be a member of, or solicit any other municipal officer or employee to join any labor union which authorizes the use of strikes by government employees.

## CHAPTER 4

### TRAVEL REIMBURSEMENT REGULATIONS

#### SECTION

- 4-401. Enforcement.
- 4-402. Travel policy.
- 4-403. Travel reimbursement rate schedule.
- 4-404. Administrative procedures.

**4-401. Enforcement.** The chief administrative officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #7-93A, July 1993)

**4-402. Travel policy.** (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(2) Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the town. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request either a travel advance for the projected cost of authorized travel, or advance billing directly to the town for registration fees, air fares, meals, lodging, conferences, and similar expenses.

Travel advance requests aren't considered documentation of travel expenses. If travel advances exceed documented expenses, the traveler must immediately reimburse the town. It will be the responsibility of the CAO to initiate action to recover any undocumented travel advances.

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

(5) The travel expense reimbursement form will be used to document all expense claims.

(6) To qualify for reimbursement, travel expenses must be:

(a) Directly related to the conduct of the town business for which travel was authorized, and

(b) Actual, reasonable, and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(7) Claims of \$5 or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee, and other reimbursable costs.

(8) Any person attempting to defraud the town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town aren't ordinarily considered eligible expenses for reimbursement. (Ord. #7-93A, July 1993)

**4-403. Travel reimbursement rate schedule.** Authorized travelers shall be reimbursed according to the federal travel regulation rates. The town's travel reimbursement rates will automatically change when the federal rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging, and registration fees for conferences, conventions, seminars, and other education programs. (Ord. #7-93A, July 1993)

**4-404. Administrative procedures.** The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee, in June 1993. A copy of the administrative procedures is on file in the office of the town clerk/recorder.

This chapter shall take effect upon its final reading by the municipal governing body. It shall cover all travel and expenses occurring on or after July 1, 1993. (Ord. #7-93A, July 1993)

**CHAPTER 5****INFECTIOUS DISEASE CONTROL POLICY****SECTION**

- 4-501. Purpose.
- 4-502. Coverage.
- 4-503. Administration.
- 4-504. Policy statement.
- 4-505. General guidelines.
- 4-506. Hepatitis B vaccinations.
- 4-507. Reporting potential exposure.
- 4-508. Hepatitis B virus post-exposure management.
- 4-509. Human immunodeficiency virus post-exposure management.
- 4-510. Disability benefits.
- 4-511. Training regular employees.
- 4-512. Training high risk employees.
- 4-513. Training new employees.
- 4-514. Records and reports.
- 4-515. Legal rights of victims of communicable diseases.
- 4-516. Amendments, supplements, or revisions.

**4-501. Purpose.** It is the responsibility of the Town of Oakland to provide employees a place of employment which is free from recognized hazards that may cause death or serious physical harm. In providing services to the citizens of the Town of Oakland, employees may come in contact with life-threatening infectious diseases which can be transmitted through job related activities. It is important that both citizens and employees are protected from the transmission of diseases just as it is equally important that neither is discriminated against because of basic misconceptions about various diseases and illnesses.

The purpose of this policy is to establish a comprehensive set of rules and regulations governing the prevention of discrimination and potential occupational exposure to Hepatitis B Virus (HBV), the Human Immunodeficiency Virus (HIV), and Tuberculosis (TB), and any other blood-borne infection. (as added by Ord. #13-18, Nov. 2013)

**4-502. Coverage.** Occupational exposure may occur in many ways, including needle sticks, cut injuries, or blood spills. Several classes of employees are assumed to be at high risk for blood borne infections due to their routinely increased exposure to bodily fluids from potentially infected individuals. Those high risk occupations include, but are not limited to the following personnel:

- (1) Paramedics and emergency medical technicians
- (2) Police officers

- (3) Firefighters
- (4) Solid waste
- (5) Any other employee deemed to be at high risk per this policy and an exposure determination. (as added by Ord. #13-18, Nov. 2013)

**4-503. Administration.** This infection control policy shall be administered by the mayor or his/her designated representative who shall have the following duties and responsibilities:

- (1) Exercise leadership in implementation and maintenance of an effective infection control policy subject to the provisions of this chapter, other ordinances, the town charter, and federal and state law relating to OSHA regulations;
- (2) Make an exposure determination for all employee positions to determine a possible exposure to blood or other potentially infectious materials;
- (3) Maintain records of all employees and incidents subject to the provisions of this chapter;
- (4) Conduct periodic inspections to determine compliance with the infection control policy by municipal employees;
- (5) Coordinate and document all relevant training activities in support of the infection control policy;
- (6) Prepare and recommend to the board of mayor and aldermen any amendments or changes to the infectious control policy;
- (7) Identify any and all housekeeping operations involving substantial risk of direct exposure to potentially infectious materials and shall address the proper precautions to be taken while cleaning rooms and blood spills; and
- (8) Perform such other duties and exercise such other authority as may be prescribed by the board of mayor and aldermen. (as added by Ord. #13-18, Nov. 2013)

**4-504. Policy statement.** All blood and other potentially infectious materials are infectious for several blood-borne pathogens. Some body fluids can also transmit infections. For this reason, the Centers for Disease Control developed this strategy that everyone should always take particular care when there is a potential exposure. These precautions have been termed "universal precautions."

Universal precautions stress that all persons should be assumed to be infectious for HIV and/or other blood-borne pathogens. Universal precautions apply to blood, tissues, and other potentially infectious materials. Universal precautions also apply to semen, vaginal secretions, and to cerebrospinal, synovial, pleural, peritoneal, pericardial and amniotic fluids. Universal precautions do not apply to feces, nasal secretions, human breast milk, sputum, saliva, sweat, tears, urine, and vomitus unless these substances contain visible blood. (as added by Ord. #13-18, Nov. 2013)

**4-505. General guidelines.** General guidelines which shall be used by everyone include:

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

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

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

(4) All workers should take precautions to prevent injuries caused by needles, scalpel blades, and other sharp instruments. To prevent needle stick injuries, needles shall not be recapped, purposely bent or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades and other sharp items shall be placed in puncture resistant containers for disposal. The puncture resistant container shall be located as close as practical to the use area.

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

(a) While handling an individual where exposure is possible;

(b) While cleaning or handling contaminated items or equipment;

(c) While cleaning up an area that has been contaminated with one of the above.

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

(6) Resuscitation equipment shall be used when necessary. Appropriate equipment will be made available to all personnel who potentially provide emergency treatment.

(7) Masks or protective eyewear or face shields shall be worn during procedures that are likely to generate droplets of blood or other potentially infectious materials to prevent exposure to mucous membranes of the mouth, nose, and eyes.

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

(9) Contaminated clothing or other articles shall be handled carefully and washed as soon as possible. Laundry and dishwashing cycles at one hundred twenty degrees (120°) are adequate for decontamination.

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

(11) Tags shall be used as a means of preventing accidental injury or illness to employees who are exposed to hazardous or potentially hazardous conditions, equipment or operations which are out of the ordinary, unexpected or not readily apparent. Tags shall be used until such time as the identified hazard is eliminated or the hazardous operation is complete. All required tags shall meet the following criteria:

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

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

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

(12) Linen soiled with blood or other potentially infectious materials shall be handled as little as possible and with minimum agitation to prevent contamination of the person handling the linen. All soiled linen should be bagged at the location where it was used. It shall not be sorted or rinsed in the area. Soiled linen shall be placed and transported in bags that prevent leakage. The employee responsible for soiled linen should always wear protective gloves to prevent possible contamination. After removing the gloves, hands or other skin surfaces shall be washed thoroughly and immediately after contact with potentially infectious materials.

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

(14) Whenever possible, disposable equipment shall be used to minimize and contain clean-up. (as added by Ord. #13-18, Nov. 2013)

**4-506. Hepatitis B vaccinations.** The Town of Oakland shall offer the appropriate Hepatitis B vaccinations to employees at risk of exposure free of charge and in amounts and times prescribed by standard medical practices. The vaccinations shall be voluntary and will be administered through the Fayette County Health Department. High risk employees who wish to take the HBV vaccination should notify their department head and they shall make the appropriate arrangements after following purchasing procedures. Those

employees determined high risk that decline to obtain the Hepatitis B vaccinations must sign a waiver. Verification of vaccinations and or waiver must be provided to town recorder for personnel files. (as added by Ord. #13-18, Nov. 2013)

**4-507. Reporting potential exposure.** Town employees shall observe the following procedures for reporting a job exposure incident that may put them at risk for HIV or HBV infections (i.e., needle sticks, blood contact on broken skin, body fluid contact with eyes or mouth, etc.):

(1) Notify department head of the contact incident and details thereof.  
(2) Complete the appropriate accident reports and any other specific form required.

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

Once an exposure has occurred, a blood sample should be drawn after consent is obtained from the individual from whom exposure occurred and tested for Hepatitis B surface antigen (HBsAg) and/or antibody to Human Immunodeficiency Virus (HIV antibody). Testing of the source individual should be done at a location where appropriate pretest counseling is available. Post-test counseling and referral for treatment should be provided. (as added by Ord. #13-18, Nov. 2013)

**4-508. Hepatitis B virus post-exposure management.** For an exposure to a source individual found to be positive for HBsAg, the worker who has not previously been given the Hepatitis B vaccine should receive the vaccine series. A single dose of Hepatitis B immune globulin (HBIG) is also recommended, if it can be given within seven (7) days of exposure.

For exposure from an HBsAg-positive source to workers who have previously received the vaccine, the exposed worker should be tested for antibodies to Hepatitis B surface antigen (anti-HBs), and given one (1) dose of vaccine and one (1) dose of HBIG if the antibody level in the worker's blood sample is inadequate (ie., 10 SRU by RIA, negative by EIA).

If the source individual is negative for HBsAg and the worker has not been vaccinated, this opportunity should be taken to provide the Hepatitis B vaccine series. HBIG administration should be considered on an individual basis when the source individual is known or suspected to be at high risk of HBV infection. Management and treatment, if any, of previously vaccinated workers who receive an exposure from a source who refuses testing or is not identifiable should be individualized. (as added by Ord. #13-18, Nov. 2013)

**4-509. Human immunodeficiency virus post-exposure management.** For any exposure to a source individual who has AIDS, who is found to be positive for HIV infection, or who refuses testing, the worker should be counseled regarding the risk of infection and evaluated clinically and

serologically for evidence of HIV infection as soon as possible after exposure. The worker should be advised to report and seek medical evaluation for any acute febrile illness that occurs within twelve (12) weeks after the exposure. Such an illness, particularly one characterized by fever, rash, or lymphadenopathy, may be indicative of recent HIV infection.

Following the initial test at the time of exposure, seronegative workers should be retested six (6) weeks, twelve (12) weeks, and six (6) months after exposure to determine whether transmission has occurred. During this follow-up period (especially the first six to twelve (6-12) weeks after exposure) exposed workers should follow the U.S. Public Health Service recommendation for preventing transmission of HIV. These include refraining from blood donations and using appropriate protection during sexual intercourse. During all phases of follow-up it is vital that worker confidentiality be protected.

If the source individual was tested and found to be seronegative, baseline testing of the exposed worker with follow-up testing twelve (12) weeks later may be performed if desired by the worker or recommended by the health care provider. If the source individual cannot be identified, decisions regarding appropriate follow-up should be individualized. Serologic testing should be made available by the town to all workers who may be concerned they have been infected with HIV through occupational exposure. (as added by Ord. #13-18, Nov. 2013)

**4-510. Disability benefits.** Entitlement to disability benefits and any other benefits available for employees who suffer from on-the-job injuries will be determined by the Tennessee Worker's Compensation Bureau in accordance with the provisions of Tennessee Code Annotated, § 50-6-303. (as added by Ord. #13-18, Nov. 2013)

**4-511. Training regular employees.** On an annual basis all employees shall receive training and education on precautionary measures, epidemiology, modes of transmission and prevention of HIV/HBV infection and procedures to be used if they are exposed to needle sticks or potentially infectious materials. They shall also be counseled regarding possible risks to the fetus from HIV-HBV and other associated infectious agents. (as added by Ord. #13-18, Nov. 2013)

**4-512. Training high risk employees.** In addition to the above, high risk employees shall also receive training regarding the location and proper use of personal protective equipment. They shall be trained concerning proper work practices and understand the concept of "universal precautions" as it applies to coding and other methods used to designate contaminated material. Where tags are used, training shall cover precautions to be used in handling contaminated material as per policy. (as added by Ord. #13-18, Nov. 2013)

**4-513. Training new employees.** During the new employee's orientation to his/her job, all new employees will be trained on the effects of infectious disease prior to putting them to work. (as added by Ord. #13-18, Nov. 2013)

**4-514. Records and reports.** (1) Reports. Occupational injury and illness records shall be maintained by the town recorder. Statistics shall be maintained on the OSHA-200 report. Only those work-related injuries that involve loss of consciousness, transfer to another job, restriction of work or motion, or medical treatment are required to be put on the OSHA-200.

(2) Needle sticks. Needle sticks, like any other puncture wound, are considered injuries for recordkeeping purposes due to the instantaneous nature of the event. Therefore, any needle stick requiring medical treatment (i.e. gamma globulin, Hepatitis B immune globulin, Hepatitis B vaccine, etc.) shall be recorded.

(3) Prescription medication. Likewise, the use of prescription medication (beyond a single dose for minor injury or discomfort) is considered medical treatment. Since these types of treatment are considered necessary, and must be administered by physician or licensed medical personnel, such injuries cannot be considered minor and must be reported.

(4) Employee interviews. Should the town be inspected by the U.S. Department of Labor Office of Health Compliance, the compliance safety and health officer may wish to interview employees. Employees are expected to cooperate fully with the compliance officers. (as added by Ord. #13-18, Nov. 2013)

**4-515. Legal rights of victims of communicable diseases.** Victims of communicable diseases have the legal right to expect, and municipal employees, including police and emergency service officers are duty bound to provide, the same level of service and enforcement as any other individual would receive.

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

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

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

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

(5) Any dissemination of newspaper releases or any other social media release must ensure that no confidential information is provided.

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

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

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

(9) Victims of a communicable disease and their families have a right to conduct their lives without fear of discrimination. An employee shall not make public, directly or indirectly, the identity of a victim or suspected victim of a communicable disease.

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

(11) Any employee who disseminates confidential information in regard to a victim, or suspected victim of a communicable disease in violation of this policy shall be subject to serious disciplinary action or termination and/or civil and/or criminal prosecution. (as added by Ord. #13-18, Nov. 2013)

**4-516. Amendments, supplements, or revisions.** Any amendments or revisions of these rules shall be by ordinance and shall only become effective after approval by the board of mayor and aldermen. The rules contained herein are the minimum acceptable regulations for the Town of Oakland and by federal law, but individual departments may have supplemental rules in addition to these provisions within their standard operating procedures. Any standard operating procedures adopted by individual departments in addition to the rules herein must be maintained on file by the town recorder. (as added by Ord. #13-18, Nov. 2013)

**CHAPTER 6**

**TITLE VI COMPLIANCE**

**SECTION**

4-601. Adoption of Title VI Compliance Manual.

4-602. Policy statement.

**4-601. Adoption of Title VI Compliance Manual.** The Title IV Compliance Manual for the Town of Oakland is adopted in its entirety by reference.<sup>1</sup> (as added by Ord. #14-4, March 2014)

**4-602. Policy statement.** The following statement shall be deemed as the Town or Oakland's Title VI policy statement:

"It is the policy of the Town of Oakland to ensure that no citizen shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

(as added by Ord. #14-4, March 2014)

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<sup>1</sup>The Title VI Compliance Manual for the Town of Oakland (and any amendments) is available in the office of the recorder.

**TITLE 5**

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

**CHAPTER**

1. REAL PROPERTY TAXES.
2. PRIVILEGE TAXES.
3. PURCHASING PROCEDURES.
4. MISCELLANEOUS.

**CHAPTER 1**

**REAL PROPERTY TAXES<sup>2</sup>**

**SECTION**

- 5-101. When due and payable.  
5-102. When delinquent--penalty and interest.  
5-103. Collection of delinquent taxes.

**5-101. When due and payable.** Taxes levied by the town against real property shall become due and payable annually on the first Monday of October of the year for which levied.

**5-102. When delinquent--penalty and interest.** All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the state law for delinquent county real property taxes.

**5-103. Collection of delinquent taxes.** (1) The town shall use the county trustee and county delinquent tax attorney to collect delinquent property taxes of the corporation for all taxes assessed for 2011 and all years thereafter. The recorder shall certify the 2011 and 2012 delinquent taxes to the county

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<sup>1</sup>Charter references  
Annual budget: § 25.  
Fiscal year: § 24.  
Expenditures: § 28.

<sup>2</sup>Charter references  
Delinquent taxes: § 36.  
Due dates: § 35.  
Property taxes: § 32.

trustee by April 1, 2014. In the event the county trustee and county delinquent tax attorney shall accept the delinquent taxes for all taxes assessed for 2005 thru 2012, the recorder shall certify all years to the county trustee and county delinquent tax attorney by April 1, 2014. The recorder shall certify the delinquent taxes to the county trustee and county delinquent tax attorney by April 1 of the year after taxes became due for all years thereafter. The property so certified to the county trustee on which municipal taxes are delinquent shall be advertised and sold in the same manner as the county trustee's other sales of property for county taxes.

(2) In the event the county trustee does not accept delinquent taxes for years prior to 2011, the town shall use the town attorney acting in accordance with general laws and the Charter of the Town of Oakland to collect delinquent property taxes of the corporation for all taxes assessed prior to 2011 and within ten (10) years from April 1 following the year in which the taxes became delinquent. (as added by Ord. #14-5, March 2014)

**CHAPTER 2**

**PRIVILEGE TAXES**

**SECTION**

5-201. Deleted.

5-202. License required.

**5-201. Deleted.** (as deleted by Ord. #10.09.02, Oct. 2010)

**5-202. License required.** No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's payment of the appropriate privilege tax.

## CHAPTER 3

### PURCHASING

#### SECTION

- 5-301. Purchasing officer.
- 5-302. Purchase requisitions are required to request a purchase order.
- 5-303. Purchase orders are required prior to any purchase.
- 5-304. Certification of availability of funds to meet contract obligations.
- 5-305. Purchases not exceeding 10,000.00.
- 5-306. Purchases more than \$10,000.00.
- 5-307. Purchases amounting to \$10,000.00 or more, which do not require public advertising and sealed bids or proposals.
- 5-308. Noncompetitive contracts.
- 5-309. Acceptance of bids.
- 5-310. Sealed bids or proposals.
- 5-311. Record of bids.
- 5-312. Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities.
- 5-313. Electronic bidding and invitations to bid.
- 5-314. Legal recognition of electronic records, electronic signatures, and electronic contracts.
- 5-315. Bid opening.
- 5-316. Late bids.
- 5-317. Telephone bids.
- 5-318. Shipping charges.
- 5-319. Sample product policy.
- 5-320. Approved equal statement.
- 5-321. Alternate bids.
- 5-322. Vendor identification.
- 5-323. Cancellation of invitation for bid.
- 5-324. Public advertisement.
- 5-325. Mistakes in bids.
- 5-326. Performance, bid bonds, and deposits.
- 5-327. Professional service contracts.
- 5-328. Emergency purchases.
- 5-329. Procedures upon taking delivery of purchased items.
- 5-330. Consideration in determining bid awards and rejection of bids.
- 5-331. Award in case of tie bids.
- 5-332. Conflicts of interest.
- 5-333. Non-performance.
- 5-334. Delinquent delivery.
- 5-335. Items covered by warranty or guarantee.
- 5-336. Publicly advertised auctions.

- 5-337. Use of city credit/debit card and petty cash fund.
- 5-338. Purchasing officer.
- 5-339. Property control.
- 5-340. Disposal of surplus property.
- 5-341. Rules and regulations.

**5-301. Purchasing officer.** The mayor and the town recorder/chief financial officer shall be the purchasing officers for the municipality. The mayor and town recorder/chief financial officer shall act as purchasing officers for the town, with power, except as set out in these procedures, to approve purchases of materials, supplies, equipment, and services; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the town's business. All contracts, leases, and lease-purchase agreements extended beyond the end of any fiscal year must have prior approval of the board of mayor and alderman. The mayor may enter into binding contracts on behalf of the town, without specific board approval, only in routine matters and matters having insubstantial long-term consequences. "Routine matters and matters having insubstantial long-term consequences" mean any contract for which expenditures during the fiscal year will be less than ten thousand dollars (\$10,000.00). The mayor may allow the purchasing officer duties to be designated to a substitute on a temporary basis when warranted if designee is suitable to perform the duties. (Ord. #99-6-2, July 1999, as replaced by Ord. #13-17, Dec. 2013)

**5-302. Purchase requisitions are required to request a purchase order.** The department head of the using department shall deliver to the accounts payable clerk a written purchase request for the item(s) or service(s) to be purchased. Such request shall include a description of the item or service to be purchased, the estimated cost of such item or service, and shall indicate whether there are sufficient amounts in the annual hudget. The department head may provide a list of designees authorized to present requisition, but must do so in writing and obtain written approval from mayor. (as added by Ord. #13-17, Dec. 2013)

**5-303. Purchase orders are required prior to any purchase.** A requisition is required for purchases, requesting price information, initiating a bid request, and for requesting governing body approval on major expenditures. The department head of the using department shall deliver to the purchasing officer through the accounts payable municipal clerk a properly completed purchase requisition form for the item(s) to be purchased and provide ample time for processing. Purchases must be planned in order to eliminate avoidable emergencies, frequent requests, and unnecessary use of labor and fuel. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be assigned a purchase order number and verified

to see that all requirements for purchase have been completed. Once such requirements have been verified, the purchase may be approved and completed. No purchase is authorized until the purchase order is approved and returned to the requesting department head. The only exception to requisition and purchase order requirements is purchases of five hundred dollars (\$500.00) or less. Detailed instructions for requisitions are in the procedures attached hereto.<sup>1</sup> (as added by Ord. #13-17, Dec. 2013, and amended by Ord. #14-15, Dec. 2014, and Ord. # 15-9, June 2015)

**5-304. Certification of availability of funds to meet contract obligations.** No contract, agreement, or other obligation involving the expenditure of funds shall be entered into, nor shall any ordinance, resolution, or order of the expenditure of funds be passed by the board of mayor and aldermen or be authorized by any officer of the town, unless the town recorder/chief financial officer shall first certify that the funds required for such contract, agreement, obligation, or expenditure, is in the treasury or safely assured to be forthcoming and available in time to comply with, or meet such contract, agreement, obligation, or expenditures, and no contract, agreement, or other obligation involving the expenditure of money payable from the proceeds of any bonds of the town shall be entered into until the issuance and sale of such bonds have been duly authorized by the board of mayor and aldermen. (as added by Ord. #13-17, Dec. 2013)

**5-305. Purchases not exceeding \$10,000.00.** The mayor or town recorder/chief financial officer are authorized to make purchases whose estimated costs do not exceed ten thousand dollars (\$10,000.00) without formal sealed bids and written specifications for commonly used items of material, supplies, equipment, and services used in the ordinary course of maintaining and repairing the town's real or personal property; building or maintaining stocks of city material, supplies, and equipment used in the ordinary course of town operations: and minor constructions, repair, or maintenance services. However, a record of all such purchases shall be maintained describing the material, supplies, equipment, or service purchased, the person or business from whom it was purchased, the date it was purchased, the purchase cost, and any other information from which the general public can easily determine the full details of the purchase. Each purchase shall be supported by invoices and/or receipts and all other required documentation. Additional requirements for purchases not exceeding ten thousand dollars (\$10,000.00):

(1) **Purchases less than two thousand five-hundred dollars (\$2,500.00).** Purchases, leases, or lease-purchases of two thousand five hundred dollars

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<sup>1</sup>Purchasing procedures (and amendments thereto) are available in the office of the recorder.

(\$2,500.00) or less in any fiscal year shall not require any public advertisement or competitive bidding. The department head is expected to obtain the best prices and services available for purchases regardless of bidding requirements.

(2) Purchases more than two thousand five-hundred dollars (\$2,500.00) but less than ten thousand dollars (\$10,000.00). Purchases, leases, and lease purchases of more than two thousand five hundred dollars (\$2,500.00) and less than ten thousand dollars (\$10,000.00) singly, or in the aggregate, during any fiscal year and, except as otherwise provided herein, shall require three (3) proposals or quotations in writing prior to each purchase. Awards shall be made to the lowest and most responsible proposal or quote. A written record shall be required and available for public inspection showing that competitive quotes were obtained. (as added by Ord. #13-17, Dec. 2013)

**5-306. Purchases more than \$10,000.00.** A description of all projects or purchases, except as herein provided, which require the expenditure of town funds of ten thousand dollars (\$10,000.00) or more shall be prepared by the department head and provided to the town recorder/chief financial officer for submission to the board of mayor and aldermen by resolution for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the board of mayor and aldermen may authorize the town recorder/chief financial officer to advertise for bids or proposals and to accept only sealed bids that shall be opened by the purchasing officer or the board of mayor and aldermen. The award of purchases, leases, or lease-purchases of ten thousand dollars (\$10,000.00) or more shall be made by the board of mayor and aldermen to the lowest and best responsible bidder. The transaction shall be evidenced by written contract. (as added by Ord. #13-17, Dec. 2013)

**5-307. Purchases amounting to \$10,000.00 or more, which do not require public advertising and sealed bids or proposals.** May be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the board of mayor and aldermen:

(1) Sole source of supply or proprietary products as determined after complete search by the department head and/or purchasing officer; sole source providers must be approved by the board of mayor and aldermen prior to purchase.

(2) Emergency expenditures with subsequent approval of the board of aldermen.

(3) Purchases from instrumentalities created by two (2) or more cooperating governments.

(4) Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.

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

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

(7) Purchases through other units of governments as authorized by Tennessee Code Annotated, § 6-56-301 et seq.

(9) Purchases directed through or in conjunction with the state department of general services.

(10) Purchases from Tennessee state industries.

(11) Professional service contracts as provided in Tennessee Code Annotated, §§ 29-20-407 and 12-4-106. Professional service contracts shall never be awarded on the basis of competitive bidding; rather awards shall be made on the basis of recognized competence and integrity.

(12) Tort liability insurance as provided in Tennessee Code Annotated, §§ 12-4-407 and 29-20-407.

(13) Purchases of perishable commodities.

(14) Natural gas for resale. (as added by Ord. #13-17, Dec. 2013)

**5-308. Noncompetitive contracts.** The board of mayor and aldermen, upon written recommendation of the mayor, and by unanimous resolution of those present at the meeting, may authorize noncompetitive contracts where it is clearly to the advantage of the municipality not to contract with competitive bidding. (as added by Ord. #13-17, Dec. 2013)

**5-309. Acceptance of bids.** The town reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one (1) bidder, to accept any part or all of a bid, or to accept that bid (or bids) which in the judgment of the board of mayor and aldermen is in the best interest of the city. The board of mayor and aldermen may also reject all bids and assign public improvements or any other municipal work to a municipal department. (as added by Ord. #13-17, Dec. 2013)

**5-310. Sealed bids or proposals.** Sealed bids are required on all purchases of ten thousand dollars (\$10,000.00.00) or more. Bids must be advertised in a local newspaper of general circulation not less than five (5) days before bid opening date. The decision to use sealed proposals instead of sealed bids must be made by the board of mayor and aldermen by ordinance adopting a procurement code in compliance with Tennessee Code Annotated, § 12-3-1011. When the purchasing officer sends duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return one (1) and maintain a file copy, bids will not be accepted on any vendor letterhead, vendor bid form or other substitutions unless special permission is given by the purchasing officer. (as added by Ord. #13-17, Dec. 2013)

**5-311. Record of bids.** A summary of bids form should be used to record all bids. The form should be included in the information presented to the board of mayor and aldermen for consideration of award of the bid. All bids should be opened in public at an advertised specified time. Late bids should not be accepted or opened. The purchasing officer shall keep a record of all open market orders and bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding, and such records shall be open to public inspection and maintained by the recorder/chief financial officer. At a minimum, the bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the bid specifications.
- (3) A copy of the resolution approved by the board authorizing process.
- (4) A copy of the purchase order.
- (5) A copy of the bid advertisement.
- (6) A list of bidders and their responses.
- (7) A copy of the invoice and all supporting documentation. (as added by Ord. #13-17, Dec. 2013)

**5-312. Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities.** Shall not be signed by a town employee other than the designated purchasing officers herein unless authorized in writing by the action of the board of mayor and aldermen. (as added by Ord. #13-17, Dec. 2013)

**5-313. Electronic bidding and invitations to bid.**<sup>1</sup> Notwithstanding any provision of law, rule, or regulation to the contrary, local governments may satisfy any requirement for mailing by distributing invitations to bid electronically. In addition, local governments may receive bids electronically. The invitation to bid may be distributed electronically and bids shall be considered when they are received in hand at the designated office if by the time and date set for receipt of bids. Such electronic bids or proposals shall contain specific reference to the invitation for bids; the items, quantities, and prices for which the bid is submitted; the time and place of delivery; and a statement that the bidder agrees to all the terms, conditions, and provisions of the invitation for bids. (as added by Ord. #13-17, Dec. 2013)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 12-3-704.

**5-314. Legal recognition of electronic records, electronic signatures, and electronic contracts.**<sup>1</sup> A record or signature may not be denied legal effect or enforceability solely because it is in electronic form. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation. If a law requires a record to be in writing, an electronic record satisfies the law. If a law requires a signature, an electronic signature satisfies the law. (as added by Ord. #13-17, Dec. 2013)

**5-315. Bid opening.** Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud, with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects, may be evaluated privately with a public recommendation to the board of mayor and aldermen after evaluation and study. The purchasing officer is responsible for setting bid opening dates and times. Failure of a vendor representative to sign a bid removes that bid from consideration. A typed official's name will not be acceptable without that person's written signature. (as added by Ord. #13-17, Dec. 2013)

**5-316. Late bids.** No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened. It is important that the integrity or the bidding process be maintained. (as added by Ord. #13-17, Dec. 2013)

**5-317. Telephone bids.** The purchasing officer will not accept any bid by telephone. He may accept telephone quotes for purchases less than two thousand five-hundred dollars (\$2,500.00). (as added by Ord. #13-17, Dec. 2013)

**5-318. Shipping charges.** Bids are to include all shipping charges to the point of delivery. Bids will only be considered on the basis of delivered price, except as otherwise authorized by the board of mayor and aldermen. In many instances, the amount of shipping charges will be the deciding factor in making a purchase. (as added by Ord. #13-17, Dec. 2013)

**5-319. Sample product policy.** The purchasing officer may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration. (as added by Ord. #13-17, Dec. 2013)

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 47-10-107.

**5-320. Approved equal statement.** Specifications in the request for bids are intended to establish a desired quality or performance level or other minimum requirements which will provide the town with the best product available at the lowest possible price. When a brand name and/or model are designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing. Brands and/or models other than those designated as "equal to" products shall receive equal consideration. (as added by Ord. #13-17, Dec. 2013)

**5-321. Alternate bids.** Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the town to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item. (as added by Ord. #13-17, Dec. 2013)

**5-322. Vendor identification.** Potential suppliers are selected from existing vendor files using department's suggestions and any and all sources available to locate vendors related to a specific product or service. New suppliers are added to the bid list as they are found. (as added by Ord. #13-17, Dec. 2013)

**5-323. Cancellation of invitation for bid.** An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the town. The reasons shall be made a part of the bid or proposal file. (as added by Ord. #13-17, Dec. 2013)

**5-324. Public advertisement.** In addition to publication in a newspaper of general circulation as required by law, the purchasing officer may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications be included in the invitation to bid. However, the notice should state clearly the purchase to be made. (as added by Ord. #13-17, Dec. 2013)

**5-325. Mistakes in bids.** Mistakes in bids detected prior to bid opening may be corrected by the bidder withdrawing the original bid and submitting a revised bid prior to the bid opening date and time. Bidder mistakes detected by the bidder after the bids have been opened based on miscalculation may be withdrawn only with the approval of the purchasing officer. The purchasing officer shall determine if all or a portion of any bid bond shall be surrendered to the town as liquidated damages for any costs associated with the bid withdrawal. (as added by Ord. #13-17, Dec. 2013)

**5-326. Performance, bid bonds, and deposits.** Performance, bid bonds, and deposits must be determined by the board of mayor and aldermen. The board of mayor and aldermen may require a performance bond before entering into a contract, in such amount as they find reasonably necessary to protect the best interests of the town and furnishers of labor and materials in the penalty of not less than the amount provided by Tennessee Code Annotated. When deemed necessary, the board of mayor and aldermen may require that bidders submit a bid bond or other acceptable guarantee equal to five percent (5%) of the bid to ensure that the lowest responsible bidder selected by the board enters into a contract with the town. All or a portion of the bid bond shall be surrendered to the town as liquidated damages should the successful bidder fail to enter into a contract awarded by the board within ten (10) days after the award, and unsuccessful bidders shall be entitled to a return of such deposits within ten (10) calendar days of the bid award. The board of mayor and aldermen may require and then include in the bid documents a requirement for the successful bidder to post a performance bond or other guarantee satisfactory to the city attorney that insures the faithful performance of all of the terms and conditions of any purchase contract. (as added by Ord. #13-17, Dec. 2013)

**5-327. Professional service contracts.**<sup>1</sup> Only contracts for services performed within the professional's field of expertise are to be considered professional service contracts. A contract is required to be awarded on the basis of recognized competence and integrity, rather than competitive bids. A written contract specifying the service, cost, and expenses covered under the contract is required. Professional services include legal services, fiscal agent, financial advisor or advisory services, consultants, and other similar services by professionals with "high ethical standards." Only contracts for services performed within the professional's field of expertise are to be considered professional service contracts. Contracts for professional services will be awarded on the basis of recognized competence and integrity rather than on competitive bids. This does not prevent the town from requesting proposals from eligible service providers, then deciding the capabilities of each. (as added by Ord. #13-17, Dec. 2013)

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<sup>1</sup>State law reference

Tennessee Code Annotated, §§ 12-4-106 and 62-2-107.

Architect or Engineer: Plans, specifications, and estimates for any public works project exceeding twenty-five thousand dollars (\$25,000.00) must be prepared by a registered architect or engineer as required by Tennessee Code Annotated, § 62-2-107.

**5-328. Emergency purchases.** Emergency purchases are to be made only when normal functions and operations of the town would be severely hampered by purchasing in the regular manner, or where property, equipment, or life are endangered through unexpected circumstances; and materials, services, etc., are needed immediately. Failure to plan does not equivocate to the necessity or approval as an emergency purchase. All emergency purchases must be documented and submitted to the board of aldermen for subsequent review. (as added by Ord. #13-17, Dec. 2013)

**5-329. Procedures upon taking delivery of purchased items.** Before accepting delivery of purchased equipment, supplies, materials and other tangible goods, the department head of the using department shall:

- (1) Inspect the goods to verify that they are in acceptable condition.
- (2) Verify that all operating manuals and warranty cards are included in the delivery of the goods, if applicable.
- (3) Verify that the number of items purchased has been delivered; making special note when part of all of a particular purchase has been back ordered.
- (4) Record serial numbers on appropriate forms for all capital and mobile items and provide to town recorder/chief financial officer.
- (5) Provide to the purchasing agent all packing slips, signed tickets, etc. reflecting acceptable receipt of goods.
- (6) All warranty information must be provided to the town recorder/chief financial officer. (as added by Ord. #13-17, Dec. 2013)

**5-330. Considerations in determining bid awards and rejection of bids.** The board of mayor and aldermen shall have the authority to reject any and all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The board of mayor and aldermen shall not accept the bid of a 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 town by said vendor or contractor. When the award for a purchase or contract is not given to the lowest bidder, a full and complete statement of the reasons shall be prepared and filed as part of the bid record and shall be recorded in the minutes of the meeting. The following criteria shall be considered in determining bid awards:

- (1) The ability of the bidder to perform the contract or provide the material or service 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 previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

(5) The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities, or performed for private sector contractors.

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

(7) The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.

(8) Compliance with all specifications in the solicitation for bids.

(9) The ability to deliver and maintain any requisite bid bonds or performance bonds.

(10) Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance.

(11) Bid awards may be split among two (2) or more bidders only if provided in notice for bidding that bid awards may be split. If total savings generated is less than two hundred dollars (\$200.00), bid awards shall not be split. (as added by Ord. #13-17, Dec. 2013)

**5-331. Award in case of tie bids.** When two (2) or more vendors have submitted the low bid, the following criteria shall be used to award the bid:

(1) Discount allowed;

(2) Delivery schedule;

(3) Previous vendor performance;

(4) Vendor location;

(5) Trade-in value offered.

If the tie cannot be resolved in this manner to the satisfaction of the board of mayor and aldermen, the decision shall be based upon a coin toss as directed by the board of mayor and aldermen. (as added by Ord. #13-17, Dec. 2013)

**5-332. Conflicts of interest.** No purchase shall be made from, nor any contract for purchase of services made, with any person, firm, or corporation in which any officer or employee of the town is financially interested except when such person, firm, or corporation is the sole source for such goods or services within a reasonable marketable distance of the town, and then in such instance, all purchases shall be subject to prior approval by the board of mayor and aldermen. No officer or employee of the town shall accept directly or indirectly any fee, rebate, money, or other thing of value from any person, firm, or corporation employed by or doing business with the town, except on behalf of and for the use of the town, or in accordance with the exception hereinabove set forth. It shall be the policy of the town not to purchase any goods or services from any employee or close relative of any town employee without the prior approval of the board of mayor and aldermen. (as added by Ord. #13-17, Dec. 2013)

**5-333. Non-performance.** Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one (1) or more of the following actions in addition to those already addressed within this ordinance:

- (1) Removal of a vendor from a bid list.
- (2) Allowing the vendor to find the needed item for the town from another supplier at no additional cost to the town.
- (3) Allowing the town to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
- (4) Allowing monetary settlement. (as added by Ord. #13-17, Dec. 2013)

**5-334. Delinquent delivery.** Once the purchasing officer has issued a purchase order, no follow-up work should be done unless the item has not been received. If this happens, the purchasing officer may initiate action, either written or verbal as time allows investigating the delay. (as added by Ord. #13-17, Dec. 2013)

**5-335. Items covered by warranty or guarantee.** The town buys many items which have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing officer should be consulted to see if the item is covered by such warranty or guarantee. The town recorder shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing officer with the invoice indicating date of receipt. (as added by Ord. #13-17, Dec. 2013)

**5-336. Publicly advertised auctions.** Tennessee Code Annotated, § 12-3-1006 grants municipalities the authority to purchase items at publicly advertised auctions after the board of mayor and aldermen have established written and adopted procedures governing such purchases. Only the mayor or designated purchasing officer shall make purchases at publicly advertised auctions unless a designee is appointed by the board of mayor and aldermen. The town may purchase at any publicly advertised auction new or secondhand articles, equipment, or other materials, supplies, commodities and equipment without public advertisement and competitive bidding. If the town purchases any materials, supplies, commodities or equipment at a publicly advertised auction pursuant to state law, then the following information must be provided to town recorder to report to the board of mayor and aldermen:

- (1) A description of the materials, supplies, commodities, or equipment that was purchased;

- (2) The auction where such items were purchased;
- (3) The purchase price of such items; and
- (4) The vendor of such materials, supplies, commodities, or equipment.

All other purchasing requirements under this chapter are applicable. (as added by Ord. #13-17, Dec. 2013)

**5-337. Use of city credit/debit card and petty cash fund.** Purchases made by credit/debit card must comply with the town's policy governing the use of such cards. To buy items that cost less than one hundred dollars (\$100.00) from businesses that do not issue invoices or have charge accounts, purchases may be made by withdrawals from the petty cash fund. Prior to any withdrawal from the petty cash fund, such a fund must be set up by the town recorder/chief financial officer. The town recorder/chief financial officer, or a designee, is responsible for any withdrawals from this account in compliance with the State of Tennessee Internal Control and Compliance Manual. Any receipts or requests for monies from this fund must contain the expense code and be signed by the person receiving the cash for payment. Credit/debit cards and the petty cash fund should be used only if other purchasing methods are not easily obtainable. (as added by Ord. #13-17, Dec. 2013)

**5-338. Purchasing officer.** The purchasing officer shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part hereof. (as added by Ord. #13-17, Dec. 2013)

**5-339. Property control.** A physical inventory of all fixed assets of the town shall be taken and include all serial/VIN numbers. All fixed assets will be tagged as required by the Internal Control and Compliance Manual issued by the State of Tennessee Office of Comptroller. This inventory will be maintained and updated upon any purchase and provided to the town recorder/chief financial officer. A complete inventory will be performed annually after established to obtain the following goals:

- (1) To identify unneeded and duplicate assets.
- (2) To provide a basis for insurance coverage and claims.
- (3) To deter the incidence of theft and negligence.
- (4) To aid in the establishment of replacement schedules for equipment.
- (5) To note transfers of surplus property.

To be classified as a fixed asset, an item must be tangible, have an expected life longer than the current fiscal year, and have a value of at least one hundred dollars (\$100.00). Any property or equipment that meets this criterion shall be assigned an asset number (affixed with a property sticker or tag), have a completed property card, and be inventoried annually. Such records shall be

controlled and maintained by the department head and copy thereof provided to the town recorder/chief financial officer. These records shall be kept in an updated and current condition and subject to periodic audit. Computer print outs with appropriate information shall be acceptable if signed by the department head. (as added by Ord. #13-17, Dec. 2013)

**5-340. Disposal of surplus property.** The mayor and town recorder shall be in charge of the disposal of surplus property and make a full report to the board of mayor and aldermen after the items are disposed of. When a department head determines that there is surplus equipment or materials within the department, he/she shall notify the mayor and town recorder in writing of such equipment. The mayor and town recorder may transfer surplus equipment or materials from one department to another with subsequent approval of the board of mayor and aldermen. The town recorder in conjunction with the department head will decide of the best method of disposal of items with an estimated value of less than one thousand dollars (\$1,000.00). Items with an estimated value of more than one thousand dollars (\$1,000.00) shall be advertised for bidding, which will begin after the purchasing officer has received approval from the board of mayor and aldermen. No town employee or officer shall be permitted to bid on surplus property; nor shall any surplus property be sold or given to a town employee by the board of mayor and aldermen, the purchasing officer, or any town department head. For the purposes of this chapter, members of the board of mayor and aldermen and any other board or commission member shall be considered town employees. Further instructions as to disposal of surplus property are as follows:

(1) Surplus property: Items consumed in the course of work thought to be worthless - town property which may be consumed in the course of normal town business and items thought to be worthless shall be disposed of in a like manner as any other refuse. For accounting purposes, such items shall be charged off as a routine cost of doing business.

(2) Surplus property: Items estimated to have monetary value - when disposing of surplus property estimated to have monetary value, the town recorder, in conjunction with the department head, shall comply with the following procedures:

(a) Obtain from the board of mayor and aldermen a resolution declaring said items to be surplus property and fixing the date, time, and location for the town recorder to receive bids.

(b) A copy of the resolution shall be posted at city hall and in newspaper of local circulation.

(c) Such equipment or materials shall be sold to the highest bidder. In the event the highest bidder is unable to pay within twenty-four (24) hours, the item shall be awarded to the highest bidder.

(d) All pertinent information concerning the sale shall be noted in the fixed asset records of the town.

(e) The advertisement, bids and property cards shall be retained for a minimum period of five (5) years.

(f) With approval of the board of mayor and aldermen, equipment or material also may be sold at public auction.

(3) Surplus property: town identification removed prior to sale. No surplus town property shall be sold unless and until all decals, emblems, lettering, or coloring which identifies the item as belonging to the Town of Oakland have been removed or repainted. (as added by Ord. #13-17, Dec. 2013)

**5-341. Rules and regulations.** Purchasing rules and regulations shall be developed by the purchasing officer, and approved and adopted by the board of mayor and aldermen. The purchasing procedures attached hereto, if any, are made a part hereof, and are hereby adopted. The purchasing officer is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this chapter and adopted procedures. (as added by Ord. #13-17, Dec. 2013)

**CHAPTER 4**

**MISCELLANEOUS**

**SECTION**

5-401. Official depositories for town funds.

5-402. Capitalization thresholds for financial reporting purposes.

**5-401. Official depositories for town funds.** The following banking and savings and loan institutions, are hereby designated as official depositories of municipal funds for the Town of Oakland:

- |                                 |                          |
|---------------------------------|--------------------------|
| 1. Oakland Deposit Bank         | 6. BanCorp South         |
| 2. Somerville Bank & Trust      | 7. Bank of Fayette Co.   |
| 3. Union Planters               | 8. Coastal Securities    |
| 4. First Citizens National Bank | 9. Teachers Credit Union |
| 5. TML Investment Pool          |                          |

(as added by Ord. #04-03-01, April 2004, and replaced by Ord. #04-04-01, May 2004)

**5-402. Capitalization thresholds for financial reporting purposes.** (1) The following minimum threshold amounts are established for the purpose of recording and reporting general capital assets, including general infrastructure assets, in the financial statements as required by GASB 34:

<u>CAPITAL ASSET</u>	<u>CAPITALIZE &amp; DEPRECIATE</u>	<u>ESTIMATED USEFUL LIFE</u>
Land	\$5,000.00	1 Year
Building	\$5,000.00	1 Year
Improvements other than buildings	\$5,000.00	1 Year
Infrastructure	\$5,000.00	1 Year
All other capital assets including, but not limited to, machinery, equipment, vehicles	\$5,000.00	1 Year

(2) Assets that are consumed, used-up, lost or worn-out in one (1) year or less shall not be capitalized. Assets having a useful life of more than one (1) year but that have a historical or estimated costs of less than the threshold limit established in subsection (1) above must be inventoried for tracking purposes, including location, and provided to the town recorder as an official record.

Assets having a useful life of more than one (1) year that have a historical or estimated cost of less than the threshold limit but one hundred dollars (\$100.00) or more must be tagged and assigned inventory number and location provided to the town recorder as an official record.

(3) The town recorder or chief financial officer is responsible for maintaining capital asset inventory and all other asset inventories for capitalization, depreciation, and monitoring of town assets. The town recorder or chief financial officer shall have the cooperation and assistance of all department heads in establishing asset inventory records in accordance with GASB 34 and the State of Tennessee Division of Municipal Audit Internal Control and Compliance Manual for Tennessee Municipalities. (as added by Ord. #15-3, March 2015)

## TITLE 6

LAW ENFORCEMENT

## CHAPTER

## 1. POLICE AND ARREST.

## CHAPTER 1

POLICE AND ARREST<sup>1</sup>

## SECTION

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

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue.

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the town court during the trial of cases. Policemen shall also promptly serve any legal process issued by the town court.

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the governing body shall authorize and shall carry a service pistol and billy club at all times while on duty unless otherwise expressly directed by the chief for a special assignment.

6-104. When policemen to make arrests<sup>1</sup>. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

- (1) Whenever he is in possession of a warrant for the arrest of the person.

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<sup>1</sup>Municipal code reference

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

(2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it.

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

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

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department.

**TITLE 7**

**FIRE PROTECTION AND FIREWORKS**

**CHAPTER**

1. VOLUNTEER FIRE DEPARTMENT.
2. FIRE SERVICE OUTSIDE TOWN LIMITS.
3. FIRE CODE.
4. AUTOMATIC SPRINKLER SYSTEM REQUIRED.
5. FUTURE FIRE PROTECTION FEES.
6. FIREWORKS.

**CHAPTER 1**

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

**SECTION**

- 7-101. Establishment, equipment, and membership.
- 7-102. Objectives.
- 7-103. Organization, rules, and regulations.
- 7-104. Records and reports.
- 7-105. Tenure and compensation of members.
- 7-106. Chief responsible for training and maintenance.
- 7-107. Chief to be assistant to state officer.

**7-101. Establishment, equipment, and membership.** There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the town and shall be and remain the property of the town. The volunteer fire department shall be composed of a chief appointed by the board of mayor and aldermen and such number of physically-fit subordinate officers and firemen as the chief shall appoint.

**7-102. Objectives.** The volunteer fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.

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<sup>1</sup>Municipal code reference

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

- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.

**7-103. Organization, rules, and regulations.** The chief of the volunteer fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the volunteer fire department.

**7-104. Records and reports.** The chief of the volunteer fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the mayor once each month, and at the end of the year a detailed annual report shall be made.

**7-105. Tenure and compensation of members.** The chief shall hold office so long as his conduct and efficiency are satisfactory to the board of mayor and aldermen. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the volunteer fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the board of mayor and aldermen.

All personnel of the volunteer fire department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe.

**7-106. Chief responsible for training and maintenance.** The chief of the volunteer fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the volunteer fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month.

**7-107. Chief to be assistant to state officer.** Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the volunteer fire department is designated as an assistant to the state commissioner of insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof.

## CHAPTER 2

### FIRE SERVICE OUTSIDE TOWN LIMITS

#### SECTION

7-201. Equipment to be used only within corporate limits generally.

**7-201. Equipment to be used only within corporate limits generally.** No equipment of the volunteer fire department shall be used for fighting any fire outside the corporate limits unless such fire is on town property or, in the opinion of the chief of the volunteer fire department, is in such hazardous proximity to property owned by or located within the town as to endanger the town property or unless expressly authorized in writing by the board of mayor and aldermen.

## CHAPTER 3

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

#### SECTION

7-301. Fire code adopted.

7-302. Fees.

7-303. Available in recorder's office.

7-304. Penalty.

**7-301. Fire code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, the Standard Fire Prevention Code, 2000 edition, is hereby adopted by reference as though it were copied herein fully. (as added by Ord. #04-08-01, Sept. 2004)

**7-302. Fees.** All fees for inspections and permits under the above code shall be those fees as adopted by the Oakland Board of Mayor and Aldermen by resolution and said fees for inspections and permits may be changed by resolution of the board of mayor and aldermen. (as added by Ord. #04-08-01, Sept. 2004)

**7-303. Available in recorder's office.** A copy of the code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #04-08-01, Sept. 2004)

**7-304. Penalty.** It shall be unlawful for any person to violate or fail to comply with any provision of the code as herein adopted by reference. The violation of any section of this chapter shall be punished by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #04-08-01, Sept. 2004)

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<sup>1</sup>Municipal code reference  
Building, utility, etc. codes: title 12.

**CHAPTER 4****AUTOMATIC SPRINKLER SYSTEM REQUIRED****SECTION**

- 7-401. Automatic sprinkler system required.
- 7-402. Classifications of occupancies.
- 7-403. Major renovation and addition defined.
- 7-404. Gross floor areas.
- 7-405. Special hazards.
- 7-406. Applicable standards.
- 7-407. Installation and maintenance.
- 7-408. Conflicts with other codes.
- 7-409. Enforcement.

**7-401. Automatic sprinkler system required.** An approved automatic sprinkler system shall be required in the following new or renovated buildings:

- (1) Place of assembly - All buildings with an occupancy load of three hundred (300) or more persons, with no exceptions.
- (2) Educational -All buildings exceeding four thousand five hundred (4,500) square feet gross floor area.
- (3) Health care - All buildings.
- (4) Residential :
  - All multi-family buildings as follows:
    - (a) Hotel/motel (NFPA 13R).
    - (b) Apartments (NFPA 13R). Provided, however, that the exceptions to requirements for automatic sprinkler systems now set out in § 18-3.5.2 of the Life Safety Code (NFPA 101) shall not apply in any apartment within the town's jurisdiction.
  - (c) Board and care facilities (NFPA 13R for sixteen (16) or less occupants, NFPA 13 for more than sixteen (16) occupants);
  - (d) Multi-family (attached) - three (3) or more attached units up to four (4) stories (NFPA 13R). Three (3) or more attached units more than four (4) stories (NFPA 13).
  - (e) One- and two-family dwellings: All buildings four thousand five hundred (4,500) square feet or more finished floor area (excluding garages), or exceeding two thousand (2,000) square feet and set back more than three hundred feet (300') from a public road.
- (5) Mercantile - All buildings exceeding four thousand five hundred (4,500) square feet gross floor area.
- (6) Business - All buildings exceeding four thousand five hundred (4,500) square feet gross floor area.
- (7) Industrial - All buildings exceeding four thousand five hundred (4,500) square feet gross floor area.

(8) Storage - All buildings exceeding four thousand five hundred (4,500) square feet gross floor area.

(9) Mixed uses - All buildings exceeding four thousand five hundred (4,500) square feet gross floor area.

(10) Institutional - All buildings exceeding four thousand five hundred (4,500) square feet gross floor area. (as added by Ord. #11.11.03, Dec. 2011)

**7-402. Classifications of occupancies.** The occupancies specified in § 7-401 shall be classified in accordance with chapter 4 of the Life Safety Code (NFPA-101). A copy of the Life Safety Code will at all times be on file in the office of the town clerk of the Town of Oakland for use and inspection by the public. (as added by Ord. #11.11.03, Dec. 2011)

**7-403. Major renovation and addition defined.** For the purpose of this chapter, major renovation shall be defined as construction to the building that is greater than fifty percent (50%) of the estimated cost of reconstructing the entire structure. Any addition to an existing building which brings the gross square floor area above the applicable square footages listed shall cause the entire building to meet the requirements of this chapter. (as added by Ord. #11.11.03, Dec. 2011)

**7-404. Gross floor area.** For the purposes of this chapter, only approved four (4) hour fire walls shall be considered when calculating the gross floor area in occupancies or for constituting a separate building for occupancies specified in § 7-401. (as added by Ord. #11.11.03, Dec. 2011)

**7-405. Special hazards.** Where automatic sprinkler protection is determined to increase the hazard of the property or occupants to be protected, other automatic extinguishing systems appropriate for the hazard shall be provided. (as added by Ord. #11.11.03, Dec. 2011)

**7-406. Applicable standards.** Automatic extinguishing systems shall be installed, tested, inspected and maintained in accordance with applicable National Fire Protection Association standards. (as added by Ord. #11.11.03, Dec. 2011)

**7-407. Installation and maintenance.** (1) The extinguishing system shall be electronically connected to a central facility meeting the requirements of NFPA 71. System actuation shall initiate an alarm sequence.

(2) Where a system may be disabled by closing of valves, interruption of power, etc. adequate supervision shall be provided to sound at least a local trouble alarm when the system is deactivate.

(3) Where building fire alarm facilities are provided, actuation of the extinguishing system shall also cause the building alarm to sound in accordance with NFPA 72. (as added by Ord. #11.11.03, Dec. 2011)

**7-408. Conflicts with other codes.** Where the requirements of this chapter conflict with the Oakland building code or fire code, the more stringent requirement shall apply. (as added by Ord. #11.11.03, Dec. 2011)

**7-409. Enforcement.** The provisions in this chapter shall be enforced by the fire chief. All plans and inspections shall be approved by the fire chief or his/her designee. (as added by Ord. #11.11.03, Dec. 2011)

## CHAPTER 5

### FUTURE FIRE PROTECTION FEES

#### SECTION

- 7-501. Short title.
- 7-502. Purpose and findings.
- 7-503. Authority.
- 7-504. Definitions.
- 7-505. Issuance of building permit and certification of occupancy.
- 7-506. Collection of fire fee.
- 7-507. Computation of the amount of fire fee.
- 7-508. Use of funds.
- 7-509. Amendments.
- 7-510. Exemptions.
- 7-511. Appeals and protests.
- 7-512. Severability.

**7-501. Short title.** This chapter shall be known and cited as the Town of Oakland Fire Protection Fees Ordinance. (as added by Ord. #11.11.03, Dec. 2011)

**7-502. Purpose and findings.** The board of mayor and alderman (the "board") finds that:

- (1) The fire protection system of the Town of Oakland (the "town") are in the need of repair, constant maintenance and expansion in order to provide adequate protection for persons and property;
- (2) The town has prepared a study identifying the need and cost of maintaining and expanding fire protection services throughout the town's fire districts; and
- (3) The fee established by this chapter will be imposed and collected for the purpose of providing additional funds necessary to ensure the town's ability to maintain fire protection in accordance with its current standards. (as added by Ord. #11.11.03, Dec. 2011)

**7-503. Authority.** This chapter is adopted pursuant to the charter powers of the Town of Oakland Tennessee, and all applicable laws of the State of Tennessee. (as added by Ord. #11.11.03, Dec. 2011)

**7-504. Definitions.** As used in this chapter, unless the context otherwise requires:

- (1) A "building" means any structure built for the support, shelter, or enclosure of persons, chattels, or movable property of any kind, including a

mobile home, but excluding buildings used for agricultural purposes and residential accessory structures;

(2) "Building permit" means a permit issued by the Town of Oakland building official authorizing the construction or placement of a building or structure within the town municipal limits;

(3) A "certificate of occupancy" means a license for occupancy of a building or structure after the building or structure has been inspected to determine the construction has been undertaken in compliance with the building permit application in conformity with the zoning ordinance and other pertinent ordinances and codes adopted by the Town of Oakland;

(4) "Dwelling unit" means a room, or rooms connected together constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other room(s) or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities;

(5) A "feepayer" is a person who applies to the Town of Oakland for a building permit which for new single family residential or commercial structures;

(6) "Fire protection" means the prevention and extinguishment of fires; the protection of life and property from fire; and the enforcement of municipal, state, and federal fire codes;

(7) "Floor area" means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof within the outer surface of the main walls of principal or accessory buildings or portions thereof, or within the roofline of any building or portions thereof without wall, but excluding arcades, porticos, and similar open which are not used as aisles, display, storage, service, production or office area;

(8) "Governing body" means the municipal legislative body of the Town of Oakland, Tennessee;

(10) "Person" means any individual, firm, co-partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, the plural as well as the singular number;

(11) "Public building" means a building owned by the State of Tennessee or any agency thereof, a political subdivision of the State of Tennessee, including but not necessarily limited to the counties, cities, towns, school districts and special districts, or the federal government or any agency thereof;

(12) "Rescue" means what commonly is called "rescue," a service which generally includes the provision of basic life support, the extrication of accident victims of entrapment;

(13) "Residential unit" means the development of any property for dwelling unit or unit. (as added by Ord. #11.11.03, Dec. 2011)

**7-505. Issuance of building permit and certification of occupancy.**

No building permit or certificate or occupancy for new residential or commercial structure within the Town of Oakland municipal limits shall be issued unless and until the fee herein imposed has been paid in full by the person engaging in such building, and provided in any other relevant section of the municipal code or any other duly adopted municipal ordinance, code, or requirement. (as added by Ord. #11.11.03, Dec. 2011)

**7-506. Collection of fire fee.** (1) Each applicant for a building permit for new residential and commercial structure shall state, on a form provided by the building official, the amount of gross square footage contained in the structure subject to the application.

(2) The building official shall calculate the fee due on the permit and collect such fee in cash or by a negotiable instrument, prior to issuance of the building permit.

(3) In the event that a building permit is not obtained for any new structure, the applicant for a certificate of occupancy shall state the amount of gross square footage contained in the project subject to application, and the building official shall calculate the fee due the project and collect such fee in cash or by a negotiable instrument, prior to issuance of the certification of occupancy.

No building permit or certificate of occupancy shall be issued until the fee hereby required has been paid. (as added by Ord. #11.11.03, Dec. 2011)

**7-507. Computation of the amount of fire fee.** (1) The fee schedule shall be as calculated at twelve cents (\$0.12) per square foot of enclosed floor area.

(2) All funds collected pursuant to this chapter shall be properly identified as fire fees and properly transferred for deposit into the appropriate fire fees trust fund to be held in separate accounts as determined by this chapter and used solely for the purposes specified herein. (as added by Ord. #11.11.03, Dec. 2011)

**7-508. Use of funds.** (1) Funds collected from fire fees shall be used for the purposes of maintaining and expanding fire protection and other related emergency services.

(2) Each fiscal year the town recorder shall present the board of mayor and aldermen a proposed capital improvement program for the fire services, assigning funds, including accrued interest, from the relevant fire protection funds to fire and other related emergency services expenses. Monies including any accrued interest, not assigned in any fiscal period shall be retained in the same fee trust fund until the next fiscal period. (as added by Ord. #11.11.03, Dec. 2011)

**7-509. Amendments.** The board of mayor and alderman may, from time to time, amend this chapter and the fee imposed herein, based upon adoption of a revised capital improvements program for fire services, which identifies new capital improvements and costs reasonably attributed to new residential and commercial structures. (as added by Ord. #11.11.03, Dec. 2011)

**7-510. Exemptions.** No fee shall be assessed or collected for the construction of:

- (1) Buildings used for agricultural purposes;
- (2) Public buildings;
- (3) Fully sprinkled buildings of less than four thousand five hundred square feet (4,500 sq. ft.) in accordance with NFPA standards.
- (4) Uninhabited residential accessory structures. (as added by Ord. #11.11.03, Dec. 2011)

**7-511. Appeals and protests.** Any person aggrieved by the calculation or assessment of the fee authorized by this chapter may protect such assessment pursuant to the laws of the State of Tennessee. (as added by Ord. #11.11.03, Dec. 2011)

**7-512. Severability.** If any of the provision of this chapter, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to that end the provisions of this chapter are declared to be severable. (as added by Ord. #11.11.03, Dec. 2011)

## CHAPTER 6

### FIREWORKS

#### SECTION

- 7-601. Purpose.
- 7-602. Definition of terms.
- 7-603. Permits required for sale and permit fees.
- 7-604. Permit revocation.
- 7-605. Business license or permits required.
- 7-606. Permissible fireworks.
- 7-607. Storing and structures.
- 7-608. Limitations on structures.
- 7-609. Location of fireworks outlets.
- 7-610. Parking for retail fireworks sales site.
- 7-611. Unlawful acts in the sale and handling of fireworks.
- 7-612. Limited time period for the use of fireworks.
- 7-613. Penalties for violations.
- 7-614. Seizure and destruction of fireworks.
- 7-615. Public displays or exhibits of Class B or 1.3 fireworks.
- 7-616. Exceptions.
- 7-617. Requirements or compliance with state regulations not affected.

**7-601. Purpose.** The purpose of this chapter is to provide for the display, sale and use of certain fireworks for both public and private display within the corporate limits of the Town of Oakland, Tennessee within certain guidelines which shall provide for the general safety and welfare of the citizens thereof. (as added by Ord. #14-14, Dec. 2014)

**7-602. Definition of terms.** As used in this chapter the following terms shall have the meaning ascribed to them in this section unless clearly indicated otherwise.

(1) "Manufacturer," any person engaged in the making, manufacture, or construction of fireworks of any type within the Town of Oakland or the State of Tennessee.

(2) "Distributor," any person engaged in the business of making sales of fireworks to any other person engaged in the business of reselling fireworks either as a wholesaler or retailer.

(3) "Wholesaler," any person engaged in the business of making sales of fireworks to any other person engaged in the business of making sales at retail.

(4) "Retailer," any person engaged in the business of making sales of fireworks to consumers.

(5) "Mobile retailer," means a vendor operating from motor vehicles, trailers, bicycles, or motorbikes.

(6) "Fireworks," means any composition or device for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and which meets the definition of:

(a) All articles of fireworks classified as 1.4G, or referred to as "consumer fireworks" or "Class C common fireworks,"

(b) Theatrical and novelty, classified as 1.4S, or

(c) Display fireworks, classified as 1.3G, as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, title 49, Code of Federal Regulations (CFR), parts 171-180.

(d) Exceptions:

(i) Toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100(p), and packed and shipped according to those regulations;

(ii) Model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

(iii) Propelling or expelling charges consisting of sulfur, charcoal, and saltpeter are not considered as designed to produce audible effects.

(7) "Permit," means the written authority of the Town of Oakland issued under the authority of this section.

(8) "Person," means any individual, firm, partnership, corporation, or one (1) or more individuals.

(9) "Sale" means an exchange of articles of fireworks for money and also includes barter, exchange, gift, or offer and each such transaction made by any person, whether as principal, proprietor, salesperson, agent, association, co-partnership, or one (1) or more individual(s).

(10) "State fire marshal permit" means the appropriate fireworks permit issued by the Tennessee Fire Marshal under the authority of Tennessee Code Annotated, § 68-104-101, et seq.

(11) Singular words and plural words used in the singular include the plural and the plural as singular. (as added by Ord. #14-14, Dec. 2014)

**7-603. Permits required for sale and permit fees.** (1) It is unlawful for any person to sell or to offer for sale in the Town of Oakland any item of fireworks without first having secured a state fire marshal permit and a permit issued by the Town of Oakland (for a state fire marshal permit to be obtained by a retailer, the mayor must sign in behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location).

(a) Permits are not transferable.

(b) A permit (to sell fireworks to the general public) is valid only from June 20 through July 9 or December 21 through January 5.

(c) The permit fee for retail permits is seven hundred fifty dollars (\$750.00) per period per location.

(2) A permit to sell fireworks in the Town of Oakland must be obtained at least one (1) week prior to the date on which the applicant begins making sales. Each application shall contain the following:

(a) The application must include the name, address, and telephone number of applicant.

(b) The applicant must be the person who will operate or be responsible for sales.

(c) The applicant's name must be the same as the name on the state fire marshal permit.

(d) The applicant is liable for all violations of this chapter by persons under his/her supervision.

(3) A person that applies for a retail fireworks permit must provide proof of state sales tax number for sales tax purposes.

(4) A site plan must be submitted that includes the dimensions of the lot, size and location of structure, setback of structure from the right-of-way, location of other structures in the area that are occupied, location and number of parking places, location of any nearby residences, location of nearest fuel outlets, and location of other fireworks outlets if located within seven hundred fifty feet (750') of a retail structure.

(5) Mobile vendors are not permitted.

(6) Flashing signs are not permitted.

(7) Sign permits must be obtained from the Town of Oakland Code Enforcement Department and must meet all standards and requirements under the appropriate town ordinance.

(8) The applicant must contain evidence that general liability insurance has been obtained by applicant naming the Town of Oakland as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage injury liability combined.

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

(10) The applicant is to maintain a clean fireworks retail site at all locations and clean up the retail fireworks site at all approved locations after tents are removed.

(11) After the application has been submitted and approved, a town code official shall inspect the site for compliance with applicable codes and ordinances. (as added by Ord. #14-14, Dec. 2014)

**7-604. Permit revocation.** (1) The code official and/or fire official may revoke any permit upon failure of retailer to correct any of the following conditions within thirty-six (36) hours after the code official gives written notice.

(a) When the permittee or permittee's operator violates any lawful rule, regulation, or order of the town code official.

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

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

(d) When the permittee or the permittee's operator violates any fireworks ordinance, code, or statute.

(2) When any activities of the permittee constitute a distinct hazard to life or property, the code official or fire official, or both, may revoke the permit immediately. (as added by Ord. #14-14, Dec. 2014)

**7-605. Business license or permits required.** The issuance of permits herein required does not replace or relieve any person of state, county, or municipal licenses as now or hereafter provided by law. Before the issuance of any town business or privilege license, the town recorder shall require each applicant to submit adequate proof of possession of valid fireworks permits as issued by the town code official and state fire marshal, or any other required business license, permit, or other requirements required by state law or Town of Oakland Municipal Code. (as added by Ord. #14-14, Dec. 2014)

**7-606. Permissible fireworks.** (1) It is unlawful for any individual, firm, partnership, or corporation to sell or use within the Town of Oakland, except as provided in this chapter, any "fireworks" as defined in 7-602(6) other than the following:

(a) Those firms classified by the U.S. Department of Transportation as 1.4G consumer fireworks, or

(b) Those items that comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public under its regulations.

(2) Any display using 1.3G display fireworks must be under the control of a licensed pyrotechnics technician. (as added by Ord. #14-14, Dec. 2014)

**7-607. Storing and structures.** No person may smoke within a structure where fireworks are sold. No person selling fireworks may permit the presence of lighted cigars, cigarettes, or pipes within a structure where fireworks are offered for sale. At all places where fireworks are stored or sold, there must be posted signs with the words, "Fireworks - No Smoking" in letters not less than four inches (4") high. An inspected and currently tagged fire extinguisher with a minimum 2A rating and one (1) pressurized water type fire

extinguisher must be present at each retail fireworks site. Fireworks sold at retail may be sold only from a freestanding structure. Fireworks must be stored at least ten feet (10') away from any windows and other areas where the sun may shine through. Fireworks are not permitted to be stored in residential districts, except for personal use. (as added by Ord. #14-14, Dec. 2014)

**7-608. Limitations on structures.** Tents meeting the current adopted International Building Code and the Life Safety Code (NFPA 101) may be used for the retail sale of fireworks. Ground fault interrupter protection must be used for power cords that supply power to tents and other outdoor structures. Electrical wiring inside tents and other outdoor locations shall be securely installed, without splices, and lamps shall be protected from accidental breakage by a suitable fixture or guard. No structure from which fireworks are sold may exceed three thousand two hundred (3,200) square feet. Fireworks may not be stored in a permanent building unless the building has a sprinkler system and is constructed of non-flammable materials such as metal or concrete block. (as added by Ord. #14-14, Dec. 2014)

**7-609. Location of firework outlets.** (1) Fireworks sales structures must be no closer than one hundred fifty feet (150') from any occupied building or residence.

(2) Firework sales are permissible only on commercial/industrial property as approved by the planning department and the sales structure must be a minimum of forty-five feet (45') from the right-of-way.

(3) No fireworks shall be sold at retail at any location where paints, oils, or varnished are for sales or use unless kept in the original unbroken containers.

(4) No fireworks shall be stored, placed, located, sold, or traded within one hundred fifty feet (150') of gasoline sales outlet (service station, market, or other such facility) or within three hundred feet (300') of bulk petroleum storage or distribution facility. All measurements shall be from building-to-building, and not from property line-to property line.

(5) No fireworks structure shall be located within seven hundred fifty feet (750') of another fireworks structure. Priority shall be given to the retailer who obtained a permit the previous year at the same location. (as added by Ord. #14-14, Dec. 2014)

**7-610. Parking for retail fireworks sales sites.** The site for a fireworks retailer shall be improved to provide at least twelve (12) graveled or paved places for off street and right-of-way customer parking. In addition, the retail fireworks site must provide for an on-site turn-around area so that backing of vehicles onto the street will not be necessary. (as added by Ord. #14-14, Dec. 2014)

**7-611. Unlawful acts in the sale and handling of fireworks.** (1) It is unlawful to offer for sale or to sell any fireworks to children under the age of sixteen (16) years of age to any intoxicated person.

(2) It is unlawful to explode or ignite fireworks within six hundred feet (600') of any church, assisted living facility, nursing home, hospital, funeral home, public or private school academic structure, or within two hundred feet (200') of where fireworks are stored, sold, or offered for sale.

(3) It is unlawful to ignite or discharge any permissible articles of fireworks within or throw them from a motor vehicle.

(4) It is unlawful to place or throw any ignited article of fireworks into or at a motor vehicle, or at or near any person or group or persons.

(5) It is unlawful to ignite fireworks on another person's private property unless permission is obtained from the owner or occupant of the property.

(6) It is unlawful to use fireworks at times, places, or in a manner that endangers other persons.

(7) It is unlawful to ignite fireworks during a burning ban declared by either the State of Tennessee or the Town of Oakland Fire Department, except for public (and/or group) displays for which permits have been granted. (as added by Ord. #14-14, Dec. 2014)

**7-612. Limited time period for the use of fireworks.** It is unlawful to discharge or use fireworks except for the following time periods.

(1) July 1 through July 3 -The permissible hours are from 10:00 A.M. to 10:30 P.M. and July 4 the permissible hours are from 10:00 A.M. to 11:59 P.M.

(2) December 31 and January 1 - The permissible hours are from 8:00 P.M. on December 31 to 1:00 A.M. on January 1. (as added by Ord. #14-14, Dec. 2014)

**7-613. Penalties for violations.** Notwithstanding any penalty for conviction of any applicable state law or regulation of the State of Tennessee, any individual, firm, partnership, or corporation that violates any provisions of this chapter shall be guilty of a Class C misdemeanor punishable by a fine to the retailer of up to one hundred dollars (\$100.00) for the first offense, a fine of up to two hundred dollars (\$200.00) for the second offense, and a fine of up to five hundred dollars (\$500.00) for subsequent offenses. The Town of Oakland hereby adopts Tennessee Code Annotated, § 68-104-112(a)(1) by reference in this chapter. (as added by Ord. #14-14, Dec. 2014)

**7-614. Seizure and destruction of fireworks.** The state fire marshal shall seize as contraband, any fireworks other than "Class C common fireworks" as defined in § 7-602(6)(i) hereof and Tennessee Code Annotated, § 68-104-108, or "special fireworks" for public displays as provided in § 7-602(6)(c) of this

chapter, which are sold displayed, used or possessed in violation of this chapter. The state fire marshal is authorized to destroy any fireworks so seized. (as added by Ord. #14-14, Dec. 2014)

**7-615. Public displays or exhibits of Class B or 1.3 fireworks.** The public display of fireworks, pyrotechnic, and flame effect exhibitors within the corporate limits of the Town of Oakland (Class B or 1.3) shall be governed by the provisions of Tennessee Code Annotated, §§ 68-104-201, et seq., NFPA regulations, and Town of Oakland ordinances.

(1) Any individual or entity must be a licensed exhibitor to perform outdoor fireworks displays, indoor/outdoor proximate pyrotechnic displays, or an indoor/outdoor display using flame effects and provide proof of licensure to the town recorder at least ten (10) days of proposed display.

(2) Permit fees will be fifty dollars (\$50.00) and requires board of mayor and aldermen approval with the exception of the Town of Oakland sponsored displays.

(3) The individual or entity must submit evidence to the town recorder that general liability insurance has been obtained by the exhibitor naming the Town of Oakland as additional insured for at least two million dollars (\$2,000,000.00) for each occurrence, whether in respect to bodily injury liability or property damage liability or bodily injury liability and property damage injury liability combined at least ten (10) in advance of proposed display.

(4) Applications for permits for public displays must be provided to the Town of Oakland Fire Chief at least ten (10) days in advance of the proposed display for approval. The application bearing signature of town fire chief attesting to approval must be submitted to the Town of Oakland Police Chief and Recorder.

(5) The Town of Oakland hereby adopts Tennessee Code Annotated § 68-104-210(a) as a Town of Oakland ordinance violation. A violation of this section is a Class B misdemeanor and fines may be imposed as allowed therein. (as added by Ord. #14-14, Dec. 2014)

**7-616. Exceptions.** (1) Nothing in this chapter shall be construed as applying to the manufacture, storage, sale or use of signals necessary for the safe operation of railroads or other classes of public or private transportation or of illuminating devices for photographic use, nor as applying to the military of the United States, or the State of Tennessee or to peace officers of the town or of the state, nor as prohibiting the sale or use of blank cartridges for ceremonial, theatrical, or athletic events, nor as applying to transportation, sale or use of fireworks solely for agricultural purposes, providing the purchaser shall first secure a written permit to purchase and use fireworks for agricultural purposes only from the town fire marshal, and the state fire marshal, after approval of the county agricultural agent of Fayette County, Tennessee, and said fireworks must at all times be kept in possession of the farmer to whom the permit is

issued. Items sold for agricultural purposes shall be limited to those items that are legal for retail sale and use within the town and state.

(2) The sale of any kind of fireworks that are to be shipped directly out of the corporate limits of the Town of Oakland in accordance with the regulations of the United States Department of Transportation covering the transportation of explosives and other dangerous articles by motor, rail, and or water. (as added by Ord. #14-14, Dec. 2014)

**7-617. Requirements or compliance with state regulations not affected.** This chapter shall in no wise affect the validity of any law or regulation promulgated by the State of Tennessee or by the state fire marshal thereof, as relates to the control and regulation of the manufacture, sale or use of fireworks within the State of Tennessee. It is the intent of this chapter to authorize the public display, sale and use of such fireworks within the corporate limits of the Town of Oakland in accordance with the applicable state regulations, as augmented by the rules and regulations of the Town of Oakland. The enforcement of this regulation shall be the responsibility of the fire chief, police chief, code official, and town recorder of the Town of Oakland. (as added by Ord. #14-14, Dec. 2014)

**TITLE 8**

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

**CHAPTER**

1. INTOXICATING LIQUORS.
2. BEER.
3. WINE IN RETAIL FOOD STORES.
4. INTOXICATING LIQUORS IN RETAIL FOOD STORES.

**CHAPTER 1**

**INTOXICATING LIQUORS**

**SECTION**

- 8-101. Definition of "alcoholic beverages."  
8-102. Consumption of alcoholic beverages on premises.  
8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.  
8-104. Annual privilege tax to be paid to the town recorder.

**8-101. Definition of "alcoholic beverages."** As used in this chapter, unless the context indicates otherwise: "alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, where the latter contains an alcoholic content of five percent (5%) by weight, or less. (as replaced by Ord. #04.11.01, Dec. 2004)

**8-102. Consumption of alcoholic beverages on premises.** Tennessee Code Annotated, title 57, chapter, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on premises consumption that are regulated by the said code when such sales are conducted within the corporate limits of Oakland, Tennessee. It is the intent of the board of mayor and aldermen that the said Tennessee Code Annotated, title 57, chapter 4, inclusive, shall be effective in Oakland, Tennessee, the same as if said code sections were copied herein verbatim. (as added by Ord. #04.11.01, Dec. 2004)

**8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.** Pursuant to the authority contained in Tennessee Code Annotated, 57-4-301, there is hereby levied a privilege tax (in

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<sup>1</sup>State law reference

Tennessee Code Annotated, title 57.

the same amounts levied by Tennessee Code Annotated, title 57, chapter 4, section 301, for the Town of Oakland General Fund to be paid annual as provided in this chapter) upon any person, firm corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Oakland alcoholic beverages for consumption on the premises where sold. (as added by Ord. #04.11.01, Dec. 2004)

**8-104. Annual privilege tax to be paid to the town recorder.** Any person, firm corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption the premises in the Town of Oakland shall remit annually to the town recorder the appropriate tax described in 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law (as added by Ord. #04.11.01, Dec. 2004)

## CHAPTER 2

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

#### SECTION

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

**8-201. Beer board established.** There is hereby established a beer board to be composed of the board of mayor and aldermen. A chairman shall be elected annually by the board from among its members. The board of mayor and aldermen shall serve without compensation for the term of their election or until their successors shall take office.

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

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<sup>1</sup>Municipal code references

Public drunkenness, minors in beer places, etc.: title 11 chapter 2.

Tax provisions: title 5.

State law reference

For a leading case on a municipality's authority to regulate beer, see the Tennessee Supreme Court decision in Watkins v. Naifeh, 635 S.W.2d 104 (1982).

**8-203. Record of beer board proceedings to be kept.** The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

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

**8-205. Powers and duties of the beer board.** The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this town in accordance with the provisions of this chapter.

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

**8-207. Permit required for engaging in beer business.** It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to Tennessee Code Annotated, § 57-5-101(b), shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00).<sup>1</sup> Said fee shall be in the form of a cashier's check payable to the Town of Oakland. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

**8-208. Privilege tax.** Effective January 1, 1994, there is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution,

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-5-108(c).

storage or manufacture of beer shall remit the tax on January 1, 1994, and each successive January 1 to the Town of Oakland, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

**8-209. Beer permits shall be restrictive.** All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his permit by the beer board.

Permits issued by the beer board shall consist of three (3) types:

(1) Off premise permits. An off premises permit shall be issued for the consumption of beer only off the premises of the seller.

(2) On premise permits. On premises permits shall be issued for the consumption of beer on the premises. To qualify for an on premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter, be a bona fide restaurant with a menu and food available for consumption between the hours of 4:00 P.M. and 10:00 P.M. each day that the establishment is open.

(3) Special event permits. A permit to sell beer may be obtained from the beer board for special events not to exceed three (3) days. To qualify for a special event permit, the applicant must, in addition to meeting all other requirements and restrictions for a beer permit in this chapter. (as amended by Ord. #00-12-01, March 2001, and Ord. #05.07.05, July 2005)

**8-210. Interference with public health, safety, and morals prohibited.** No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with residences, hospitals, schools, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within two hundred fifty feet (250') of any residence, hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from any doorway entrance, regularly used for public ingress or egress, of the place of business from which the beer will be manufactured, sold or stored to the nearest doorway entrance of any hospital, school, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a residence, hospital, school,

church, or other place of public gathering if a valid permit had been issued to any business on that same location as of January 1, 2013, unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period after January 1, 2013. (as replaced by Ord. #08.02.02, April 2008, and Ord. #13.01.01, Feb. 2013)

**8-211. Issuance of permits to persons convicted of certain crimes prohibited.** No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

**8-212. Prohibited conduct or activities by beer permit holders.** It shall be unlawful for any beer permit holder to:

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

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer. (This provision shall not apply to grocery stores selling beer for off-premises consumption only.)

(3) Make or allow any sale of beer between the hours of 2:00 A.M. and 6:00 A.M. during any night of the week and between 6:00 A.M. and 12:00 noon on Sunday.

(4) Allow any loud, unusual, or obnoxious noises to emanate from his premises.

(5) Make or allow any sale of beer to a person under twenty-one (21) years of age, except as may be provided by state law.

(6) Allow any person under eighteen (18) years of age to loiter in or about his place of business.

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

(8) Allow drunk or disreputable persons to loiter about his premises.

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

(10) Allow gambling on his premises.

(11) Allow pool or billiard playing in the same room where beer is sold. (as amended by Ord. #00-12-01, March 2001)

**8-213. Suspension and revocation of beer permits.** The beer board shall have the power to suspend or revoke any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be suspended or revoked until a public hearing is held by the board after reasonable notice to all

the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the municipal governing body.

**8-214. Civil penalty in lieu of suspension or revocation.** Pursuant to Tennessee Code Annotated, § 57-5-108(a)(2) the board may assess a civil penalty against a permit holder in lieu of suspension or revocation of said permit. Such penalty may be up to one thousand five hundred dollars (\$1500) for each offense of making or allowing sales to minors and up to one thousand dollars (\$1000) for any other violation. The permit holder will have seven days to pay aforementioned penalty before the suspension or revocation takes effect. Payment of the penalty does not effect the permit holders right to seek judicial review of the suspension or revocation pursuant to the general laws of the State of Tennessee.

**8-215. Beer permits to be non-transferable.** The beer permit shall be issued to the person making application for the permit and shall not be transferable.

### CHAPTER 3

#### WINE IN RETAIL FOOD STORES

##### SECTION

- 8-301. Application.
- 8-302. Definitions.
- 8-303. Privilege fees established.
- 8-304. State statutes.
- 8-305. Licenses.
- 8-306. Certificate.
- 8-307. Appeal.
- 8-308. Presumed approval.
- 8-309. Exception.
- 8-310. Sales to minors, the visibly intoxicated or an unidentified consumer.
- 8-311. Identification prior to sale.
- 8-312. Hours and date of sale.
- 8-313. Restrictions.
- 8-314. Violation - penalties.
- 8-315. Severability.

**8-301. Application.** This chapter shall apply and be in effect so long as sale of wine in retail food stores is permitted in the municipality by local option referendum pursuant Tennessee Code Annotated, §§ 57-3-801, et seq. and § 57-3-106. (as added by Ord. #16-1, March 2016)

**8-302. Definitions.** For purposes herein:

- (1) "Applicant" means any person, partnership, limited liability company or corporation seeking a retail food store wine license hereunder.
- (2) "Commission" means the alcoholic beverage commission.
- (3) "License holder" means an applicant who has received a retail store wine license from the commission.
- (4) "Municipality" means Oakland, Tennessee.
- (5) "Retail food store" means an establishment that is open to the public that derives at least twenty percent (20%) of its taxable sales from the retail sale of food and food ingredients for human consumption taxed at the rate provided in § 67-6-228(a) and has retail floor space of at least one thousand two hundred square feet (1,200 sq. ft.) .
- (6) (a) "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed eighteen percent (18%) by volume. No other product shall be called "wine" unless

designated by appropriate prefixes descriptive of the fruit or the product from which the same was predominately produce, or an artificial or imitation wine.

(b) "Wine" does not mean alcohol derived from wine that has had substantial changes to the wine due to additional flavorings and additives. (as added by Ord. #16-1, March 2016)

**8-303. Privilege fees established.** Each applicant shall pay Oakland a one (1) time, nonrefundable fee in the amount of four hundred dollars (\$400.00) when the certificate application is submitted for review. Each license holder shall pay Oakland an annual license fee of one thousand dollars (\$1,000.00), due on the first business day of each year. (as added by Ord. #16-1, March 2016)

**8-304. State statutes.** Tennessee Code Annotated, §§ 57-3-801, et seq., governing the sale of wine in retail food stores, is adopted and incorporated herein, to the extent its provisions are applicable. Provisions of Tennessee Code Annotated, §§ 57-3-201, et seq., governing issuance, renewal, suspension and termination of retailers licenses, as well as the regulation and operation of retail license holders, are adopted and incorporated herein and apply to retail food store wine licenses. The restrictions in Tennessee Code Annotated, §§ 57-3-204(b), 57-3-201(g) and (h) and 57-3-404(e) shall not apply to license holders. (as added by Ord. #16-1, March 2016)

**8-305. Licenses.** Any applicant desiring to sell wine to patrons or customers within the premises of a retail food store, in sealed packages only, and not for consumption on the premises, shall make application for, and receive from the commission, a retail food store wine license. The license application shall comply with all the terms and conditions set forth in Tennessee Code Annotated, §§ 57-3-801, et seq., and, specifically, § 57-3-803. (as added by Ord. #16-1, March 2016)

**8-306. Certificate.** The applicant shall obtain from the municipality, and shall include with a license application, a certificate of compliance signed by the municipality's mayor. The applicant shall submit a certificate application to the municipality using a form provided by the municipality stating:

(1) The applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of application; and

(2) The applicant or applicants have secured a location for the business which complies with all zoning laws adopted by the municipality, as to the location of the business. (as added by Ord. #16-1, March 2016)

**8-307. Appeal.** An applicant may seek review of the denial of the certificate application by instituting an action in the Chancery Court of Fayette County, Tennessee, within sixty (60) days of the denial. (as added by Ord. #16-1, March 2016)

**8-308. Presumed approval.** If the municipality fails to grant or deny the certificate application within sixty (60) days of the municipality's physical receipt of the application, then the application shall be deemed granted. (as added by Ord. #16-1, March 2016)

**8-309. Exception.** An applicant need not obtain a certificate and submit it with the license application to the commission if:

- (1) The municipality fails to grant or deny the certificate within sixty (60) days after its physical receipt of the certificate application; or,
- (2) The applicant submits a final order of the Fayette County Chancery Court holding the municipality's denial of the certificate application was unreasonable. (as added by Ord. #16-1, March 2016)

**8-310. Sales to minors, the visibly intoxicated or an unidentified consumer.** A license holder shall not make, or permit to be made, any sales to:

- (1) Minors;
- (2) Any person who is visibly intoxicated;
- (3) Any person who is accompanied by any person who is visibly intoxicated; or,
- (4) Any person lacking the required photograph and birthdate identification required in this chapter. (as added by Ord. #16-1, March 2016)

**8-311. Identification prior to sale.** Prior to sale, a wine buyer must present to the license holder:

- (1) A valid, government-issued document showing the buyer's photograph and birthdate, such as a drivers license or other acceptable documentation; or
- (2) Any documentation acceptable to the license holder if the wine buyer is exempt under state law from the requirement to have a photo identification. (as added by Ord. #16-1, March 2016)

**8-312. Hours and date of sale.** License holders may sell or give away wine only between the hours of 9:00 A.M. and 10:00 P.M., each day; provided, however, that no license holder shall sell, give away, or otherwise dispose of any wine between 10:00 P.M. on Saturday and 9:00 A.M. on the following Monday. No license holder shall sell or give away any wine on the following days: Christmas Day; Thanksgiving Day; Labor Day; New Year's Day; the Fourth of July; a general election day; or, a primary election day. (as added by Ord. #16-1, March 2016)

**8-313. Restrictions.** Wine license holders shall abide by the restrictions in §§ 57-3-801, et seq., governing:

- (1) Purchase, delivery, storing and ordering of wine;
- (2) Credit sales;
- (3) Wholesales sale;
- (4) Responsible vendor training program requirements;
- (5) Permitted managers;
- (6) Wine tasting; and
- (7) On premises consumption licenses. (as added by Ord. #16-1, March 2016)

**8-314. Violation - penalties.** Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not more than fifty dollars (\$50.00). Upon conviction of any person or entity under this chapter, it shall be mandatory for the town judge to immediately notify the commission of said conviction, whether on appeal or not. (as added by Ord. #16-1, March 2016)

**8-315. Severability.** If any section, clause, paragraph or portion of this chapter shall be held unlawful or unconstitutional by a court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph or portion of this chapter. (as added by Ord. #16-1, March 2016)

**CHAPTER 4****INTOXICATING LIQUORS SOLD IN RETAIL LIQUOR STORES****SECTION**

- 8-401. Legalized; compliance with state law and this chapter.
- 8-402. Definitions.
- 8-403. Exception from this chapter.
- 8-404. Privilege license fees established.
- 8-405. Duration of licenses; renewals; payment of fees; issuance
- 8-406. Display of license.
- 8-407. Issuance of duplicate license.
- 8-408. Certificate.
- 8-409. Appeal.
- 8-410. Presumed approval.
- 8-411. Exception.
- 8-412. Location near churches, schools, or other public institutions.
- 8-413. Number of licenses to be issued and outstanding.
- 8-414. Location of establishments.
- 8-415. Retail store restrictions.
- 8-416. Persons not to be served.
- 8-417. Restriction on hours and days of sale.
- 8-418. Inspection of business establishments.
- 8-419. Inspection fee.
- 8-420. Monthly reports by wholesaler to collector of licenses and privileges;  
payment of fees collected.
- 8-421. Collection service fee to wholesalers.
- 8-422. Penalty for wholesaler's failure to collect or report and pay  
inspection fee.
- 8-423. Use of premiums, tokens, or other articles as inducements to purchase  
alcoholic beverages.
- 8-424. Gambling devices, music machines, pinball machines, and other devices  
prohibited on the premises.
- 8-425. Violations - penalties.
- 8-426. Severability.

**8-401. Legalized; compliance with state law and this chapter.** It shall be lawful to engage in the business of manufacturing, selling, storing, transporting, and distributing alcoholic beverages within the corporate limits of the town. The manufacture, sale, receipt, possession, storage, transportation, distribution, or in any manner dealing with alcoholic beverages within the corporate limits of the town shall be regulated with the provisions of Tennessee Code Annotated, §§ 57-3-101, et seq., the rules and regulations adopted by the

commissioner of finance and taxation of the state, and in accordance with the provisions of this chapter. (as added by Ord. #16-6, April 2016)

**8-402. Definitions.** For purposes of this chapter:

(1) "Alcoholic beverage," "beverage" or "intoxicating liquor" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, or wine capable of being consumed by a human being, other than a patented medicine, beer, or wine, where the latter two (2) contain an alcoholic content of five percent (5%) by weight or less. (Tennessee Code Annotated, § 57-3-101(1)(a)).

(2) "Applicant" means any person, firm or corporation seeking a retail liquor store license hereunder.

(3) "Board" means the board of mayor and aldermen of the town.

(4) "Commission" means the alcoholic beverage commission.

(5) "License holder" means an applicant who has received a retail liquor store licenses from the commission.

(6) "Retailer" means a person who sells intoxicating liquors in sealed containers for consumption, and not for resale.

(7) "Town" means the Town of Oakland, Tennessee.

(8) "Wholesaler" means a person who sells intoxicating liquors to retailers, which shall include distributors, distillers or any person making sales to retailers. (as added by Ord. #16-6, April 2016)

**8-403. Exception from this chapter.** Nothing in this chapter is intended to relate to the manufacture, transportation, storage, sale, distribution, possession, or receipt of, or tax upon, any beverage of an alcoholic content of five percent (5%) by weight or less; and no ordinance relating thereto shall be considered or construed as modified by this chapter.<sup>1</sup> Nothing in this chapter is intended to relate to the sale of wine in retail food stores, unless as expressly provided in Oakland code provisions and/or Tennessee Code Annotated, §§ 57-3-801, et seq., regarding same; and, no ordinance or Oakland code provisions shall be considered or constructed as modified by this chapter. (as added by Ord. #16-6, April 2016)

**8-404. Privilege license fees established.** There are hereby levied and imposed privilege license fees in the amounts and in accordance with the terms and conditions stated in this chapter, upon each person who may be authorized to engage in the manufacture, distribution, or sale, at wholesale or retail, of alcoholic beverages within the town. The amount of the license fees levied annually and imposed by this chapter shall be as follows:

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 57-3-103(a)(1).

- (1) Each manufacturer, distiller or rectifier of alcoholic beverages . . . . . \$1,000.00
  - (2) Each wholesaler of alcoholic beverages . . . . . \$ 500.00
  - (3) Each retailer of alcoholic beverages . . . . . \$ 250.00
  - (4) Each vintner or operator of a winery . . . . . \$ 250.00
- (as added by Ord. #16-6, April 2016)

**8-405. Duration of licenses; renewals; payment of fees; issuance.**

The amount of the license fees set forth in §8-404 shall be for the period of one (1) year, commencing January 1 of each year, expiring on December 31 of each year. Licenses may be renewed each year by compliance with Tennessee Code Annotated, §§ 57-3-101, et seq. upon payment of the fees described in § 8-404. All license fees shall be paid to the collector of licenses and privileges of the town ("collector"), and the collector shall not be authorized to issue such license until the applicant is qualified, as required by Tennessee Code Annotated, §§ 57-3-101, et seq., to engage in such business and has exhibited to the collector of the license issued to the applicant by the state commissioner of finance and taxation. (as added by Ord. #16-6, April 2016)

**8-406. Display of license.**

Applicants granted licenses to carry on any of the businesses or undertakings contemplated by this chapter shall, before being qualified to do business, display and post and keep displayed and posted such license in a conspicuous place on the premises of such licensee.<sup>1</sup> (as added by Ord. #16-6, April 2016)

**8-407. Issuance of duplicate license.**

When a license shall be lost or destroyed without fault of the license holder, a duplicate in lieu thereof shall be issued by the collector only after the collector has been furnished with satisfactory evidence of such loss without fault of the license holder; provided, however, that upon the issuance of such duplicate license, the license holder shall be required to pay a registration fee of five dollars (\$5.00). (as added by Ord. #16-6, April 2016)

**8-408. Certificate.**

The applicant shall obtain from the town, and shall include with a license application, a certificate signed by the town's mayor. The applicant shall submit a certificate application to the town using a form provided by the town stating:

- (1) The applicant or applicants who are to be in actual charge of the business have not been convicted of a felony within a ten (10) year period immediately preceding the date of application and, if a corporation, that the

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 57-3-211.

executive officers or those in control have not been convicted of a felony within a ten (10) year period immediately preceding the date of application; and

(2) The applicant or applicants have secured a location for the business which complies with all restrictions of any town law, ordinance or resolution, duly adopted by the board, as to the location of the business.

(3) The applicant or applicants have complied with any town law, ordinance or resolution duly adopted by the board regulating the number of retail licenses to be issued within the town. (as added by Ord. #16-6, April 2016)

**8-409. Appeal.** An applicant may seek review of the denial of the certificate application by instituting an action in the Chancery Court of Fayette County, Tennessee, within sixty (60) days of the denial. (as added by Ord. #16-6, April 2016)

**8-410. Presumed approval.** If the town fails to grant or deny the certificate application within sixty (60) days of the town's physical receipt of the application, then the application shall be deemed granted. (as added by Ord. #16-6, April 2016)

**8-411. Exception.** An applicant need not obtain a certificate and submit it with the license application to the commission if:

(1) The town fails to grant or deny the certificate within sixty (60) days after its physical receipt of the certificate application; or,

(2) The applicant submits a final order of the Fayette County Chancery Court holding the town's denial of the certificate application was unreasonable. (as added by Ord. #16-6, April 2016)

**8-412. Location near churches, schools or other public institutions.** No alcoholic beverages shall be manufactured, distilled, or rectified, sold, or stored on any premises that shall be located within five hundred feet (500') of any school or within two hundred fifty feet (250') of any church or other public institution whatsoever, measuring in a straight line connecting each structure's nearest corner.<sup>1</sup> (as added by Ord. #16-6, April 2016)

**8-413. Number of licenses to be issued and outstanding.** The number of retail licenses issued and outstanding in the town at any time shall be restricted to: one (1) for the first ten thousand (10,000) resident citizens of the town according to the last official census; one (1) additional license if the population is ten to eighteen thousand (10,000 to 18,000) according to the last

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<sup>1</sup>State law reference

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

official census; and, one (1) additional license if the population exceeds eighteen thousand (18,000), according to the last official census. (as added by Ord. #16-6, April 2016)

**8-414. Location of establishments.** It shall be unlawful for any person to operate or maintain any wholesale or retail establishment for the sale, storage, or distribution of alcoholic beverages in the town except at locations within the B-1 (Neighborhood Business District), B-2 (Highway Oriented Business District) and B-3 (Old Town Business District) zoning classifications of the zoning ordinance of the town on the date of application. (as added by Ord. #16-6, April 2016)

**8-415. Retail store restrictions.** No retail liquor store shall be located except on the ground floor and it shall have one (1) main entrance opening on a public street, and such place of business shall have no other entrance for use by the public except as hereinafter provided. When a retail liquor store is located on the corner of two (2) streets, such retail liquor store may maintain a door opening on each of the public streets. All retail liquor stores shall be of a permanent type construction, shall include a minimum of two thousand five hundred (2,500) square feet of occupied space and shall not be located in a mobile home or other movable type building. All buildings housing retail liquor stores shall be in compliance with the state regulations for the operation of retail liquor stores. No retail liquor store shall be located within two thousand five hundred feet (2,500') from any other retail liquor store, measuring in a straight line connecting each structure's nearest corner.<sup>1</sup> (as added by Ord. #16-6, April 2016)

**8-416. Persons not to be served.** It shall be unlawful for any license holder to sell, furnish, or give away any alcoholic beverage to any person visibly intoxicated, to any insane person, to any minor, to any habitual drunkard or to a person of known intemperate habits. (as added by Ord. #16-6, April 2016)

**8-417. Restriction on hours and days of sale.** License holders may sell or give away intoxicating liquors only between the hours of 9:00 A.M. and 10:00 P.M., each day; provided, however, that no license holder shall sell, give away, or otherwise dispose of any intoxicating liquors between 10:00 P.M. on Saturday and 9:00 A.M. on the following Monday. No license holder shall sell or give away any intoxicating liquors on the following days: Christmas Day; Thanksgiving Day; Labor Day; New Year's Day; the Fourth of July; a general election day; or, a primary election day. (as added by Ord. #16-6, April 2016)

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<sup>1</sup>See Watkins, supra.

**8-418. Inspection of business establishments.** The duly authorized representatives of the town shall have the right to inspect the premises of any business licensed under this article during the hours when such establishments are open for the conduct of business. (as added by Ord. #16-6, April 2016)

**8-419. Inspection fee.** There is hereby levied against license holders an inspection fee at the rate of five percent (5%) on all purchases of intoxicating liquors made by such license holders from wholesalers. The fee shall be measured by the wholesale price of the intoxicating liquors as sold by the wholesaler and paid by the license holders to the wholesaler. The fee shall be five percent (5%) of such wholesale price. The fee shall be added by the wholesaler to each invoice for alcoholic beverages sold to each license holder within the town and shall be collected by such wholesaler from such license holders and remitted to the collector.<sup>1</sup> (as added by Ord. #16-6, April 2016)

**8-420. Monthly reports by wholesaler to collector of licenses and privileges; payment of fees collected.** Each wholesaler shall furnish to the collector a report monthly, which report shall contain a list of intoxicating liquors sold to each license holder within the town, the wholesale price of the intoxicating liquor sold to each license holder, the amount of tax due, and such other information as shall be required by the collector. The monthly report shall be furnished to the collector not later than the twentieth (20th) day of the month following which the sales were made, and the inspection fees collected by the wholesaler from the license holder shall be paid to the collector at the time the monthly report is made.<sup>2</sup> (as added by Ord. #16-6, April 2016)

**8-421. Collection service fee to wholesalers.** Wholesalers collecting and remitting the inspection fee to the town shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of inspection fees collected and remitted. Such reimbursement shall be deducted and shown on the monthly report to the collector.<sup>3</sup> (as added by Ord. #16-6, April 2016)

**8-422. Penalty for wholesaler's failure to collect or report and pay inspection fee.** Failure to collect or timely report and/or pay the inspection fee

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 57-3-501.

<sup>2</sup>State law reference  
Tennessee Code Annotated, § 57-3-503(a).

<sup>3</sup>State law reference  
Tennessee Code Annotated, § 57-3-503(a).

collected shall result in a penalty of ten percent (10%) of the fee due the town which shall be paid to the collector.<sup>1</sup> (as added by Ord. #16-6, April 2016)

**8-423. Use of premiums, tokens, or other articles as inducements to purchase alcoholic beverages.** No license holder shall give away, sell, or in any manner whatsoever deal in premiums, tokens, or other articles by means of which inducements are held out to trade to purchase any alcoholic beverages. (as added by Ord. #16-6, April 2016)

**8-424. Gambling devices, music machines, pinball machines, and other devices prohibited on the premises.** No gambling devices, pinball machines, music machines or similar devices shall be permitted to operate upon any premises from which alcoholic beverages are sold. (as added by Ord. #16-6, April 2016)

**8-425. Violations - penalties.** Any violation of the provisions of this chapter shall constitute a misdemeanor and shall, upon conviction, be punishable by a fine of not more than fifty dollars (\$50.00). Upon conviction of any person under this chapter, it shall be mandatory for the town judge to immediately notify the commission of said conviction, whether on appeal or not. (as added by Ord. #16-6, April 2016)

**8-426. Severability.** If any section, clause, paragraph, provision or portion of this chapter shall be held unlawful or unconstitutional by a court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this chapter. (as added by Ord. #16-6, April 2016)

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<sup>1</sup>State law reference  
Tennessee Code Annotated, § 57-3-503(b).

**TITLE 9**

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

**CHAPTER**

1. PEDDLERS, SOLICITORS, TRANSIENT VENDORS AND STREET BARKERS.
2. DELETED.
3. POOLROOMS AND AMUSEMENT PLACES.
4. SEXUALLY ORIENTED BUSINESS ORDINANCE.

**CHAPTER 1**

**PEDDLERS, SOLICITORS, TRANSIENT VENDORS  
AND STREET BARKERS<sup>2</sup>**

**SECTION**

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit application.
- 9-105. Permit fee.
- 9-106. Location of transient vendor sites.
- 9-107. Issuance of permit.
- 9-108. Restrictions on transient vendors, peddlers, street barkers and solicitors.
- 9-109. Restrictions on advertising, etc. by transient vendors.
- 9-110. Display of permit.
- 9-111. Suspension or revocation of permit.

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<sup>1</sup>Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

<sup>2</sup>Municipal code reference

Privilege taxes: title 5.

Application for permit for peddler, transient vendor, solicitor, street barker, solicitor for charitable or religious purposes, or solicitor for subscriptions to operate within the corporate limits of the Town of Oakland, Tennessee, are available in the office of the recorder.

- 9-112. Expiration and renewal of permit.
- 9-113. Enforcement by town's police department and codes enforcement officers.
- 9-114. Use of streets and other public property.
- 9-115. Time requirements.
- 9-116. No transfer or assignment.
- 9-117. Violation and penalty.

**9-101. Definitions.** Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meanings given to them in this section:

(1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.

(3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell any single item at a cost to the purchaser in excess of twenty-five dollars (\$25.00). No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one (1) of the following conditions:

(a) Has a current exemption certificate from the Internal Revenue Service issued under section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended and delivers a copy of such certificate to the town;

(b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations and provides proof of such membership to the town; or

(c) Has been in continued existence as a charitable or religious organization in Fayette County for a period of two (2) years prior to the date of its application for registration under this chapter and provides proof of such continued existence to the town.

(4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the town, or from door to door, business to business, place to place, or from street to street, and who offers

(5) "Street barker" means any peddler who does business during recognized festival or parade days in the town and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade.

(6) "Transient vendor" means any person who brings into temporary premises and exhibits stocks or merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. "Transient vendor" does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months. (as replaced by Ord. #12.03.02, June 2012)

**9-102. Exemptions.** Except to the extent necessary for public safety under § 9-108(3) of this chapter, the terms of this chapter shall not apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold, nor to minor school children who are selling merchandise or soliciting solely to benefit the school which they attend. (as replaced by Ord. #12.03.02, June 2012)

**9-103. Permit required.** No person, firm, corporation or other entity shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes when the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or when the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (as replaced by Ord. #12.03.02, June 2012)

**9-104. Permit application.** (1) A sworn application containing the following information, together with evidence of the applicant's status if required under § 9-101(3), shall be completed and filed with the code

enforcement department by each applicant for a permit as a peddler, transient vendor, solicitor, or street barker and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:

(a) The complete name, permanent address, telephone number and social security number or federal employer identification number of the applicant, and the complete name, permanent address, telephone number and federal employer identification number of the business or organization the applicant represents;

(b) A brief description of the type of business and the goods to be sold;

(c) A recent clear photograph approximately two inches (2") square showing the head and shoulders of the applicant;

(d) The dates, times and places during which the applicant intends to do business or make solicitations;

(e) The names, permanent addresses, telephone numbers and social security numbers of each person who will make sales or solicitations within the town on behalf of or as a representative of the applicant;

(f) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance, the nature of the offense, the date and jurisdiction of conviction, and the punishment or penalty assessed therefor;

(g) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person; and

(h) Tennessee sales tax number, if applicable.

(2) Each applicant for a transient vendor permit shall submit, along with the permit application, written consent by the property owner or authorized agent for the property owner, for the applicant to use said owner's private property for the purpose stated in the application.

(3) Due to the highly perishable nature of seafood and the severity of poisoning that can result, each transient vendor who desires to sell uncooked seafood (including all types of fish and shellfish) shall present to the town a permit from any applicable federal, state, county, or other governing authority with the application.

(4) Each application shall be referred to the chief of police for investigation. The cost of the background check will be paid by the applicant. The chief shall report his findings to the code enforcement department within seventy-two (72) hours. If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the code enforcement department shall notify the applicant that his application is disapproved and that no permit will be issued. If, on the other hand, the chiefs

report indicates that the moral reputation and business responsibility of the applicant are satisfactory the town taxes and the filing of the bond required by § 9-104(5). The code enforcement department shall keep a permanent record of all permits issued.

(5) Every permittee shall file with the code enforcement department a surety bond running to the municipality in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given. The surety may be relieved without costs of all further liability by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced. (as replaced by Ord. #12.03.02, June 2012)

**9-105. Permit fee.** Each applicant for a permit as a peddler, transient vendor, solicitor or street barker shall submit with the application a nonrefundable administrative fee of twenty-five dollars (\$25.00). Notwithstanding the provisions of Tennessee Code Annotated, § 67-4-719 and any other law to the contrary, such tax shall be paid prior to the first day of engaging in business. For transient vendors, state law prescribes an additional fee. There shall be no fee for an application for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions. (as replaced by Ord. #12.03.02, June 2012)

**9-106. Location of transient vendor sites.** Transient vendor sites shall be allowed only in B-1 (Neighborhood Business), B-2 (Highway-Oriented Business), and B-3 (Old-Town Business District) zoning districts. A minimum setback of fifteen feet (15') from all public sidewalks or rights-of-way shall be required for the location of any transient vendor site. Setbacks from streets or rights of way shall be measured from the curb or right-of-way line, and setbacks from sidewalks shall be measured from the edge of the sidewalk farthest away from the curb. (as replaced by Ord. #12.03.02, June 2012)

**9-107. Issuance of permit.** Upon the completion of the application form, presentation of any additional required documentation and the payment of the permit fee (where required), the code enforcement department shall issue a permit and shall provide a copy of the permit to the applicant. Upon issuance

of the permit, the code enforcement department shall immediately deliver a copy of the application, together with all required documentation, and a copy of the permit to the chief of police. (as replaced by Ord. #12.03.02, June 2012)

**9-108. Restrictions on transient vendors, peddlers, street barkers and solicitors.** No transient vendor, peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:

(1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the town;

(2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other location that may disrupt or impede pedestrian or vehicular traffic;

(3) Offer to sell goods or services, or solicit in, vehicular traffic lanes, or operate a "road block" of any kind, except as otherwise permitted by state law, or use a parked vehicle on public streets, highways or rights of way as a business stand to sell goods, wares or merchandise to occupants of other vehicles;

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, blowing a horn, ringing a bell, using any sound amplifying device, or creating other noise, 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 person proposes to sell, except that street barkers shall be allowed cry out to call attention to their business or merchandise, as applicable, during recognized parade or festival days of the town;

(5) For purposes of the activities regulated by this chapter, enter in or upon any premises or attempt to enter in or upon any premises where a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located, or where the owner of said premises requests that the transient vendor, peddler, street barker, solicitor, solicitor for charitable purposes, or solicitor for subscriptions leave his or her property. Violation of this subsection (5) shall constitute trespassing as well as a violation of this chapter. (as replaced by Ord. #12.03.02, June 2012)

**9-109. Restrictions on advertising, etc. by transient vendors.** A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's or manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth. (as replaced by Ord. #12.03.02, June 2012)

**9-110. Display of permit.** Each peddler, street barker, transient vendor, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations and shall be required to display the same to any police officer or codes enforcement officer upon demand or to any person solicited, upon such person's request. (as replaced by Ord. #12.03.02, June 2012)

**9-111. Suspension or revocation of permit.** (1) The permit issued to any person or organization under this chapter may be suspended or revoked for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application or other documentation required to be provided to the town along with the application; or

(b) Any violation of this chapter.

(2) The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in § 9-111(1) above. The code enforcement department shall give written notice to the application of the hearing on proposed suspension or revocation of a permit issued under this chapter, which notice shall set forth specifically the grounds of complaint and the date, time and place of the hearing. Such notice shall be mailed to the permit holder at his or her last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the hearing. (as replaced by Ord. #12.03.02, June 2012)

**9-112. Expiration and renewal of permit.** (1) The permits of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The permit of any peddler, solicitor, or transient vendor who for any reason is not subject to the Tennessee privilege tax shall be valid for a period of six (6) months from the date of issuance. The permits of street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the town. The permits of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days from the date of issuance. Except as provided in subsection (2) below, and provided they are in compliance with this chapter, holders of expired permits may apply for issuance of a new permit.

(2) No permit holder whose permit has been revoked by the board of mayor and aldermen shall make application for a new permit until a period of at least six (6) months has elapsed since the last revocation.

(3) An application for renewal of a permit issued under this chapter shall be made substantially in the same form as an original application, provided that only so much of the application shall be completed as is necessary to identify the renewal applicant and to show the same information required in the initial application as to any conditions or personnel that have changed since the last application was filed. (as replaced by Ord. #12.03.02, June 2012)

**9-113. Enforcement by town's police department and codes enforcement officers.** The provisions of this chapter shall be enforced by the town's police department and codes enforcement officers. (as replaced by Ord. #12.03.02, June 2012)

**9-114. Use of streets and other public property.** No permit holder shall have any exclusive right to any location on public streets or other public property, nor shall any permit holder be permitted a stationary location thereon. No permit holder shall operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, or codes enforcement officer exercised in good faith shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced by the location of a permit holder. (as added by Ord. #12.03.02, June 2012)

**9-115. Time requirements.** No transient vendor shall keep his business open, and no peddler or solicitor shall solicit business after 8:00 P.M. and prior to 8:00 A.M. (as added by Ord. #12.03.02, June 2012)

**9-116. No transfer or assignment.** No permit issued under the provisions of this chapter shall be transferred or assigned, and no such permit shall be used by any person other than the one to whom it was issued. (as added by Ord. #12.03.02, June 2012)

**9-117. Violation and penalty.** Violation of any provision of this chapter shall be a misdemeanor, and such violation shall be punishable by a fine of up to fifty dollars (\$50.00). Each day a violation occurs shall constitute a separate offense. In addition to any fine that may be imposed, the permit of any permit holder convicted of violation of this chapter shall be cancelled and revoked by the court. (as added by Ord. #12.03.02, June 2012)

**CHAPTER 2**

**DELETED**

(This chapter was deleted by Ord. #12.03.02, June 2012)

## CHAPTER 3

### POOLROOMS AND AMUSEMENT PLACES

#### SECTION

- 9-301. Definitions.
- 9-302. Seal or tag to show serial number.
- 9-303. Special requirements for electrical devices.
- 9-304. Location near playgrounds or schools prohibited; exception.
- 9-305. Noisy operation.
- 9-306. Rules and regulations to enforce charter.
- 9-307. Permit required.
- 9-308. Filing and contents of application.
- 9-309. Approval or denial of application for permits; appeals.
- 9-310. Numbering of permits; permits required for each device, table, location.
- 9-311. Posting of permits.
- 9-312. Transfer of permits prohibited.
- 9-313. Renewal of permit.
- 9-314. Permit suspension or revocation.
- 9-315. Hours of operation.
- 9-316. Prohibited in residential areas.
- 9-317. Prohibition during school hours.

**9-301. Definitions.** As used in this chapter, the following words shall have the following respective meanings:

(1) "Poolrooms" are defined to be a place where tables of any size and construction whereon the games of pool, billiards and similar games are played by the use of cue sticks and balls.

(2) "Amusement place" is defined as any place where any machine or device which, upon the insertion of a coin, slug or token in any slot or receptacle attached thereto or connected therewith, operates or which may be operated for use as a game, contest or amusement or which may be operated for the playing of music or the exhibition of moving or still pictures or may be used for any such games, contest or amusement and which does not contain a payoff device for the return of slugs, money, coins, checks, tokens or merchandise.

(3) "Owner or operator of a poolroom or amusement place" shall mean the person, corporation or association in whose place of business any such mechanical amusement device or pool table as defined herein is placed for the use, amusement, patronage or recreation of the public or of persons in or about such place.

(4) "School hours" shall mean those hours during which the public or private schools located within the town are open in regular session. (Ord. #10-82-1, Nov. 1982)

**9-302. Seal or tag to show serial number.** Every mechanical amusement device or pool or billiard table as defined in this chapter shall have a seal or tag permanently attached thereto showing the serial number of the device or table. (Ord. #10-82-1, Nov. 1982)

**9-303. Special requirements for electrical devices.** Every mechanical amusement device which is wired for electricity shall have attached thereto a label or seal indicating the name and address of the manufacturer and the voltage and current necessary for the proper operation of such device. Each such mechanical amusement device so wired for electricity shall be equipped with not more than six (6) feet of electrical cord of a type approved by the electrical inspector, and shall be connected to a convenient electrical receptacle adjacent to such device. Where it is necessary to install electrical wiring to a mechanical amusement device or location, such wiring shall be installed in accordance with the provisions of the electrical code of Chickasaw Electric. (Ord. #10-82-1, Nov. 1982)

**9-304. Location near playgrounds or schools prohibited; exception.** It shall be unlawful for any owner or operator of a mechanical amusement device or poolroom as defined herein to cause, permit or allow the same to be located, operated or maintained within 500 feet of the nearest property line of any public playground or public or private school or elementary or high school grades, the determination of the minimum footage required herein shall be measured from the nearest point of the property line of any such playground or school to the entrance or exit of the poolroom or amusement place as defined herein in a direct line. (Ord. #10-82-1, Nov. 1982)

**9-305. Noisy operation.** It shall be unlawful for any owner or operator of any poolroom or amusement place to allow or permit any type of amusement device or pool table to be operated in such a manner that the sound created, emitted, or transmitted to be audible to any public street or highway or upon any adjoining premises. (Ord. #10-82-1, Nov. 1982)

**9-306. Rules and regulations to enforce ordinance.** The Police Department of the Town of Oakland is hereby authorized to adopt, promulgate and enforce such rules and regulations regarding mechanical amusement devices, pool or billiard tables as will enable the police department to enforce and carry out the provisions, meaning and intent of this chapter. (Ord. #10-82-1, Nov. 1982)

**9-307. Permit required.** It shall be unlawful for any owner or operator of any such pool or billiard room or amusement place to install, operate or maintain or allow to be operated any mechanical amusement device or pool or billiard table, as same shall be defined herein, in the Town of Oakland,

Tennessee without first having obtained a permit for each device or table from the Town of Oakland, Tennessee. (Ord. #10-82-1, Nov. 1982)

**9-308. Filing and contents of application.** Application for the permit or permits required by this chapter shall be made to the clerk/recorder on forms provided by him or her, shall be signed by the applicant, and shall contain the following information and such additional information as is deemed necessary by the clerk/recorder.

- (1) Name and business address of applicant;
- (2) Name and address of the location where the mechanical amusement devices or pool or billiard tables are to be placed for operation;
- (3) The name of any business or calling being conducted at said location together with the name of the owner and manager of said business and, if a corporation, the name and address of the president of the corporation;
- (4) The number of mechanical amusement devices or pool or billiard tables to be located in such place.

The application may be made for a permit to place more than one (1) such mechanical amusement device or pool or billiard table at the same location, but no application may include more than one (1) location. (Ord. #10-82-1, Nov. 1982)

**9-309. Approval or denial of application for permits; appeals.** The board of mayor and aldermen shall approve the application for permits unless:

- (1) The owner or operator of the location, or if a corporation, the president or chief executive officer thereof, where the permit is being sought has been convicted of a criminal offense involving moral turpitude or relating to the use of the type of devices or tables for which the permit is being sought or has had such a permit for any such location or devices as described herein suspended or revoked within the past twelve (12) months immediately preceding the date of application.
- (2) The electrical inspector has determined and reported that the location is not capable of safely handling the electricity required for the operation of the machines.
- (3) The location for which the permit is sought, including the owner or operator thereof, is currently under suspension or revocation of a permit of like kind and issued under this chapter.
- (4) That the location for which the permit is sought does not meet the other requirements of this chapter including distances for public institutions as defined herein.

Any person aggrieved by the action of the clerk/recorder in denying the permit requested hereunder shall have the right to appeal to the Board of Mayor and Aldermen of the Town of Oakland provided such appeal is requested and perfected within ten (10) days from such denial. The review and action of the board of mayor and aldermen on such appeals shall be final except as same may

be subject to review by a court of competent jurisdiction. (Ord. #10-82-1, Nov. 1982)

**9-310. Numbering of permits; permits required for each device, table, location.** Every permit issued under this chapter shall be serially numbered. A separate permit shall be required for each device or table at each location. The clerk/recorder shall be required to keep records of the locations and the names and addresses of the owners or operators of such locations where permits have been issued to include the number and types of permits for each location. (Ord. #10-82-1, Nov. 1982)

**9-311. Posting of permits.** A permit or permits issued under this chapter shall be permanently and conspicuously posted at the location and on the machine or device or table for which it is issued and shall not be removed from such location or from the machine, device or table. (Ord. #10-82-1, Nov. 1982)

**9-312. Transfer of permits prohibited.** No permit issued hereunder shall be transferred from one person to another nor shall any such permit be transferred from one location to another nor from one machine, device or table to another without first obtaining permission from the Police Department or the Clerk/Recorder of the Town of Oakland. A transfer fee of \$5.00 per permit shall be charged at the time of the approval of the transfer of such permit from one location to another or from one device or table to another. Permission to transfer permits as provided herein shall not be unreasonably withheld, provided the new location or new device or table to which such permit is to be transferred meets all other requirements of this chapter. (Ord. #10-82-1, Nov. 1982)

**9-313. Renewal of permit.** Permits issued hereunder shall be renewed annually and the application for renewal shall be accompanied by the payment of the fee required for the type device or table described. The renewal fee shall be paid each year on the anniversary date of its issue. (Ord. #10-82-1, Nov. 1982)

**9-314. Permit suspension or revocation.** Whenever the police department or other official responsible for the enforcement of this chapter has reason to believe that a permittee, including any servants agents or employees in the use, operation or maintenance of any mechanical amusement device or pool or billiard table has violated any law of the state of any provisions of this chapter or any other ordinance of the Town of Oakland which is directly related to the places of public amusement including pool or billiard hall, for which the permittee has been granted a permit, the police department shall give said permittee at least three (3) days notice of hearing to determine whether such permit or permits shall be suspended or revoked. A hearing shall be conducted by the city judge to determine whether such permit or permits should be

suspended or revoked. At such hearing, the permittee shall have the right to counsel. The decision of the city judge regarding suspension or revocation shall be final unless his decision is appealed to the Board of Mayor and Aldermen of the Town of Oakland within ten (10) days from the decision of the said city judge. A notice of appeal by a permittee to the board of mayor and aldermen shall be filed within ten (10) days, in writing, with the city judge. The board of mayor and aldermen shall designate a time and place for the appeal and the permittee shall be notified at least three (3) days in advance of such time, date and place of the hearing.

In the event a permit or permits issued hereunder shall be suspended or revoked by final action of the city judge or board of mayor and aldermen as provided herein, the permittee shall be required to remove all mechanical amusement devices or pool or billiard tables as defined herein and for which such permit had been issued from the establishment where same have been located for the entire period of the suspension or revocation of the permit. In the event the permittee shall fail to remove said devices or tables as required herein, same shall be deemed to be a public nuisance and shall be removed by the police department and all costs of removal shall be assessed against the permittee. (Ord. #10-82-1, Nov. 1982)

**9-315. Hours of operation.** It shall be unlawful for any owner or operator of any such mechanical amusement device or pool or billiard table as defined herein to open, maintain, conduct or operate any place where such devices or tables are kept for public use as defined herein between the hours of 10:00 P.M. and 7:00 A.M. on Monday through Thursday, 11:00 P.M. and 7:00 A.M. Friday and Saturday, on Sunday except between the hours of 12:00 Noon and 5:00 P.M. (Ord. #10-82-1, Nov. 1982)

**9-316. Prohibited in residential areas.** It shall be unlawful for any owner or operator as defined herein to open, maintain, conduct or operate any place where mechanical amusement devices or pool or billiard tables are kept which may be located in any block where more than fifty percent (50%) of the land in such block is used or zoned for residential purposes. (Ord. #10-82-1, Nov. 1982)

**9-317. Prohibition during school hours.** It shall be unlawful for the owner or operator of a place of business where any such mechanical amusement device or pool or billiard table as defined herein is placed for use, amusement, patronage or recreation of the public, to allow any person under the age of eighteen (18) years to use, patronize or play any game upon any such device during school hours as defined herein. (Ord. #10-82-1, Nov. 1982)

## CHAPTER 4

### SEXUALLY ORIENTED BUSINESS ORDINANCE

#### SECTION

- 9-401. Purpose and findings.
- 9-402. Definitions.
- 9-403. Classifications.
- 9-404. License required.
- 9-405. Issuance of license.
- 9-406. Fees.
- 9-407. Inspection.
- 9-408. Expiration of license.
- 9-409. Suspension.
- 9-410. Revocation.
- 9-411. Judicial review.
- 9-412. No transfer of license.
- 9-413. Location restrictions.
- 9-414. Non- conforming uses; amortization.
- 9-415. Additional regulations for adult motels.
- 9-416. Additional regulations for escort agencies.
- 9-417. Additional regulations for nude model studios.
- 9-418. Additional regulations concerning public nudity.
- 9-419. Regulations pertaining to exhibition of sexually explicit films and videos.
- 9-420. Exterior portions of sexually oriented businesses.
- 9-421. Signage.
- 9-422. Sale, use, or consumption of alcoholic beverages prohibited.
- 9-423. Persons younger than eighteen prohibited from entry; attendant required.
- 9-424. Massages or baths administered by person of opposite sex.
- 9-425. Hours of operation.
- 9-426. Exemptions.
- 9-427. Notices.
- 9-428. Injunction.

**9-401. Purpose and findings.** (1) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the town. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this ordinance 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 entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene materials.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the board of mayor and aldermen, and on findings incorporated in the cases of *Town of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); and *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, (1986); *California v. LaRue*, 409 U.S. 109 (1972); *Iacobucci v. Town of Newport, Ky*, 479 U.S. 92 (1986); *United Sates v. O'Brien*, 391 U.S. 367 (1968); *DLS, Inc. v. Town of Chattanooga*, 107 F.3d 403 (6<sup>th</sup> Cir. 1997); *Kev, Inc. v. Kitsap County*, 793 F.2d 1053 (9<sup>th</sup> Cir. 1986); *Hang On, Inc. v. Town of Arlington*, 65 F.3d 1248 (5<sup>th</sup> Cir.1995); and *South Florida Free Beaches, Inc. v. Town of Miami*, 734 F.2d 608 (11<sup>th</sup> Cir.1984), as well as studies conducted in other cities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma Town, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and findings reported in the Final Report of the Attorney General's Board on Pornography (1986), the Report of the Attorney General's Working Group On the Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and statistics obtained from the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, the board of mayor and aldermen finds that:

(a) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, there is presently no mechanism to make owners of these establishments responsible for the activities that occur on their premises.

(b) Crime statistics show that all types of crimes, especially sex-related crimes, occur with more frequency in neighborhoods where sexually oriented businesses are located. See, e.g., *Studies of the cities of Phoenix, Arizona; Indianapolis, Indiana; and Austin, Texas.*

(c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. See, e.g., *California v. LaRue*, 409 U.S. 109, 111 (1972); See also Final Report of the Attorney General's Board on Pornography (1986) at 377.

(d) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions. See, eg.,

Final Report of the Attorney General's Board on Pornography (1986) at 376-77.

(e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses. See, e.g., *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 698 (1986); see also Final Report of the Attorney General's Board on Pornography (1986) at 376-77.

(f) At least 50 communicable diseases may be spread by activities occurring in sexually oriented businesses including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV- AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections. See, e.g., Study of Fort Meyers, Florida.

(g) For the period 1985 through 1995, the total number of reported cases of AIDS in the United States caused by the immunodeficiency virus (HIV) was 523,056. See e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(h) As of February, 1999, there have been 8203 reported cases of AIDS in the State of Tennessee.

(i) Since 1981 and to the present, there has been an increasing cumulative number of persons testing positive for HIV antibody test in [state of] Tennessee.

(j) The total number of cases of early (less than one year) syphilis in the United States reported during the ten year period 1985-1995 was 367,796. See, e.g., Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(k) The number of cases of gonorrhea in the United States reported annually remains at high level, with a total of 1,250,581 cases reported during the period 1993-1995. See, e.g. Statistics of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(l) The surgeon general of the United States in his report of October 22, 1986, advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.

(m) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g. Findings of the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention.

(n) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the

failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities. See, e.g., Final Report of the Attorney General's Board on Pornography (1986) at 377.

(o) Numerous studies and reports have determined that bodily fluids, including semen and urine, are found in the areas of sexually oriented businesses where persons view "adult" oriented films. See, e.g., Final Report of the Attorney General's Board on Pornography (1986) at 377.

(p) Nude dancing in adult establishments encourages prostitution, increases sexual assaults, and attracts other criminal activity. See, e.g., *Barnes v. Glen Theatre*, 501 U.S. 560, 583 (1991).

(q) Nude dancing in adult establishments increases the likelihood of drug dealing and drug use. See, e.g., *Kev, Inc. v. Kitsap County*, 793 F.2d 1053, 1056 (9<sup>th</sup> Cir.1986).

(r) The findings noted in paragraphs numbered (a) through (q) raise substantial governmental concerns.

(s) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(t) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and operators of the sexually oriented businesses. Further, such licensing procedure will place a heretofore non-existent incentive on operators to see that the sexually oriented business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the town. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.

(u) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult establishments.

(v) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and criminal activity.

(w) It is desirable, in the prevention of the spread of communicable diseases, to obtain a limited amount of information regarding certain employees who may engage in the conduct this ordinance is designed to prevent, or who are likely to be witnesses to such activity.

(x) The fact that an applicant for a sexually oriented business license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this ordinance.

(y) The barring of such individuals from operation or employment in sexually oriented businesses for a period of five (5) years for a previous felony conviction serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(z) The general welfare, health, morals, and safety of the citizens of this town will be promoted by the enactment of this ordinance. (as added by Ord. #01-02-01, March 2001)

**9-402. Definitions.** (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore" or "adult video store" means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations that depict or describe "specified sexual activities" or "specified anatomical areas"; or

(b) Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "adult bookstore" or "adult video store." Such other business purposes will not serve to exempt such commercial establishments from being categorized as an "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

(a) Persons who appear in a state of nudity or semi-nudity; or

(b) Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities," or "specified anatomical areas"; or

(d) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

(4) "Adult motel" means a hotel, motel or similar commercial establishment that:

(a) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours; or

(c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty- four (24).

(5) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(6) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

(7) "Director" means the mayor or such persons as he may designate to perform the duties of the director under this ordinance.

(8) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full time, part time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said 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, nor does "employee" include a person exclusively on the premises as a patron or customer.

(9) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(10) "Escort agency" means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(11) "Establishment" means and includes any of the following:

(a) The opening or commencement of any sexually oriented business as a new business;

(b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

(c) The additions of any sexually oriented business to any other existing sexually oriented business; or

(d) The relocation of any sexually oriented business; or

(e) A sexually oriented business or premises on which the sexually oriented business is located.

(12) "Licensed day-care center" means a facility licensed by the State of Tennessee, whether situated within the town or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

(13) "Licensee" means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.

(14) "Nude model studio" means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.

(15) "Nudity" or a "state of nudity" means the appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering; or a female breast with less than a fully opaque covering of any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.

(16) "Person" means an individual, proprietorship, partnership, corporation, association, or other legal entity.

(17) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to § 9-404 of this chapter.

(18) "Semi-nude or semi-nudity" means the appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female

breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(19) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

(20) "Sexually oriented business" means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(21) "Specified anatomical areas" means:

(a) The human male genitals in a discernibly turgid state, even if fully and opaquely covered;

(b) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

(22) "Specified criminal activity" means any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the criminal or penal code of this state, other states, or other countries.

(b) For which:

(i) Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

(iii) Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four (24) month period;

(c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(23) "Specified sexual activities" means and includes any of the following:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(c) Masturbation, actual or simulated; or

(d) Excretory functions as part of or in connection with any of the activities set forth in (a) through (c) above.

(24) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) percent, as the floor areas exist on May 1, 1999.

(25) "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (as added by Ord. #01-02-01, March 2001)

**9-403. Classification.** Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers.

(as added by Ord. #01-02-01, March 2001)

**9-404. License required.** (1) It shall be unlawful:

(a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the director pursuant to this ordinance;

(b) For any person who operates a sexually oriented business to employ a person to work and/or perform services on the premises of the sexually oriented business, if such employee is not in possession of a valid sexually oriented business employee license issued to such employee by the director pursuant to this ordinance;

(c) For any person to obtain employment with a sexually oriented business if such person is not in possession of a valid sexually oriented business employee license issued to such person by the director pursuant to this ordinance.

(d) It shall be a defense to subsections (b) and (c) of this section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment, or the premises.

Violation of any provision within this subsection shall constitute a misdemeanor.

(2) An application for a sexually oriented business license must be made on a form proved by the town. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Prior to issuance of a license, the premises must be inspected by the health department, fire department, building department, and zoning department.

(3) An application for a sexually oriented business employee license must be made on a form provided by the town.

(4) All applicants for a license must be qualified according to the provisions of this ordinance. The application may request, and the applicant shall provide, such information (including fingerprints) as to enable the town to determine whether the applicant meets the qualifications established under this ordinance. The applicant has an affirmative duty to supplement an application with new information received subsequent to the date the application was deemed completed.

(5) If a person who wishes to own operate a sexually oriented business is an individual, he must sign the application for a business license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten (10%) percent or greater interest in the business must sign the application for a business license as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten (10%) percent or greater interest in the corporation must sign the application for a business license as applicant.

(6) Applications for a business license, whether original or renewal, must be made to the director by the intended operator of the enterprise. Applications must be submitted to the office of the director or the director's

designee during regular working hours. Application forms shall be supplied by the director. The following information shall be provided on the application form:

- (a) The name, street address (and mailing address if different) of the applicant(s);
- (b) A recent photograph of the applicant(s);
- (c) The applicant's driver's license number, Social Security number, and/or his/her state or federally issued tax identification number;
- (d) The name under which the establishment is to be operated and a general description of the services to be provided;
  - (i) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state
    - (A) The sexually oriented business's fictitious name and
    - (B) Submit the required registration documents;
- (e) Whether the applicant, or a person residing with the applicant, has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined in § 9-402, subsection (22), and, if so, the "specified criminal activity" involved, the date, place, and jurisdiction of each;
- (f) Whether the applicant, or a person residing with the applicant, has had a previous license under this ordinance or other similar sexually oriented business ordinance from another town or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under a sexually oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;
- (g) Whether the applicant or a person residing with the applicant holds any other licenses under this ordinance or other similar sexually oriented business ordinance from another town or county and, if so, the names and locations of such other licensed businesses;
- (h) The single classification of license, as found in § 9-403, for which the applicant is filing;
- (i) The telephone number of the establishment;

(j) The address and legal description of the tract of land on which the establishment is to be located;

(k) If the establishment is in operation, the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as a sexually oriented business at the location for which the business license is sought;

(l) If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license). If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan of accomplishing the same;

(m) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depicts specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 9-419 hereunder.

(7) Each application for a business license shall be accompanied by the following:

(a) Payment of the application fee in full;

(b) If the establishment is a [State of Tennessee] corporation, a certified copy of the articles of incorporation, together with all amendments thereto;

(c) If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;

(d) If the establishment is a limited partnership formed under the laws of the State of Tennessee, a certified copy of the certificate of limited partnership, together with all amendments thereto;

(e) If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;

(f) Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

(g) If the persons identified as the fee owner(s) of the tract of land in item (f) is not also the owner of the sexually oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the sexually oriented business to

have or obtain the use and possession of the tract or portion thereof that is to be used for the sexually oriented business;

(h) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, public park, or recreation area, or family-oriented entertainment business within 1,500 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted;

(i) Any of items (b) through (h) above shall not be required for a renewal application if the applicant states that the documents previously furnished to the director with the original application or previous renewals thereof remain correct and current.

(8) Applications for an employee license to work and/or perform services in a sexually oriented business, whether original or renewal, must be made to the director by the person to whom the employee license shall issue. Each application for an employee license shall be accompanied by payment of the application fee in full. Application forms shall be supplied by the director. Applications must be submitted to the office of the director or the director's designee during regular working hours. Each applicant shall be required to give the following information on the application form:

(a) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;

(b) Age, and date and place of birth;

(c) Height, weight, hair color, and eye color;

(d) Present residence address and telephone number;

(e) Present business address and telephone number;

(f) Date, issuing state, and number of photo driver's license, or other state issued identification card information;

(g) Social Security number; and

(h) Proof that the individual is at least eighteen (18) years old.

(9) Attached to the application form for a license shall be the following:

(a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police or sheriffs department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant, in this or any other town, county, state, or country, has ever had any license, permit, or

authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction, and describe in full the reason(s) for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(c) A statement whether the applicant has been convicted, or is awaiting trial on pending charges, of a "specified criminal activity" as defined in § 9-402, subsection (22) and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.

(10) Every application for a license shall contain a statement under oath that:

(a) The applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therewith is true and correct; and,

(b) The applicant has read the provisions of this article.

(11) A separate application and business license shall be required for each sexually oriented business classification as set forth in § 9-403.

(12) The fact that a person possesses other types of state or town permits and/or licenses does not exempt him from the requirement of obtaining a sexually oriented business or employee license. (as added by Ord. #01-02-01, March 2001)

**9-405. Issuance of license.** (1) Upon the filing of an application for a sexually oriented business employee license, the director shall issue a temporary license to said applicant. The application shall then be referred to the appropriate town departments for investigation to be made on the information contained in the application. The application process shall be completed within (30) days from the date of the completed application. After the investigation, the director shall issue an employee license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a) The applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(b) The applicant is under the age of eighteen (18) years;

(c) The applicant has been convicted of a "specified criminal activity" as defined in § 9-402, subsection (22) of this ordinance;

(d) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this ordinance; or

(e) The applicant has had a sexually oriented business employee license revoked by the town within two (2) years of the date of the current application.

If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, revocation of a license issued pursuant to this subsection shall be subject to appeal as forth in subsection (9) of this section.

(2) A license issued pursuant to subsection (1) of this section, if granted, shall state on its face the name of the person to whom it is granted, the expiration date, and the address of the sexually oriented business. The employee shall keep the license on his or her person at all times while engaged in employment or performing services on the sexually oriented business premises so that said license may be available for inspection upon lawful request.

(3) A license issued pursuant to subsection (1) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity" as defined in this ordinance, or committed any act during the existence of the pervious license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-406. Non-renewal of a license shall be subject to appeal as set forth in subsection (9) of this section.

(4) If application is made for a sexually oriented business license, the director shall approve or deny issuance of the license within forty-five (45) days of receipt of the completed application. The director shall issue a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(a) An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(b) An applicant is under the age of eighteen (18) years;

(c) An applicant or a person with whom the applicant is residing has been denied a license by the town to operate a sexually oriented business within the preceding twelve (12) months, or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months;

(d) An applicant or a person with whom the applicant is residing is overdue in payment to the town in taxes, fees, fines, or penalties, assessed against or imposed upon him/her in relation to any business;

(e) An applicant or a person with whom the applicant is residing has been convicted of a "specified criminal activity" as defined in § 9-402, subsection (22);

(f) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building department as being in compliance with applicable laws and ordinances;

(g) The license fee required under this ordinance has not been paid;

(h) An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this ordinance.

(5) A license issued pursuant to subsection (4) of this section, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the § 9-403 classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

(6) The health department, fire department, building department and zoning department shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the completed application by the director. The certification shall be promptly presented to the director.

(7) A sexually oriented business license shall issue for only one classification, as set forth in § 9-403.

(8) In the event that the director determines that an applicant is not eligible for a sexually oriented business license, the applicant shall be given notice in writing of the reasons for the denial within forty five (45) days of the receipt of the completed application by the director, provided that the applicant may request, in writing at any time before the notice is issued, that such period be extended for an additional period of not more than ten (10) days in order to make modifications necessary to comply with this ordinance.

(9) An applicant may appeal the decision of the director regarding a denial to the board of mayor and aldermen by filing a written notice of appeal with the town secretary within fifteen (15) days after service of notice upon the applicant of the director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The director may, within fifteen (15) days of service upon him of the applicant's memorandum, submit a memorandum in response to the memorandum filed by the applicant on appeal to the board of mayor and aldermen. After reviewing such memoranda, as well as the director's written decision, if any, and exhibits submitted to the director, the board of mayor and aldermen shall vote either to uphold or overrule the director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the town secretary receives the notice of appeal. However, all parties shall be required to comply with the director's decision during the

pendency of the appeal. Judicial review of a denial by the director and board of mayor and aldermen may be made pursuant to § 9-411 of this ordinance.

(10) A license issued pursuant to subsection (4) of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the director that the applicant has not been convicted of any "specified criminal activity" as defined in this ordinance, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within thirty (30) days of the completed application. The renewal of a license shall be subject to the fee as set forth in § 9-406. (as added by Ord. #01-02-01, March 2001)

**9-406. Fees.** The annual fee for a sexually oriented business license, whether new or renewal, is five hundred(\$500.00) dollars. The annual fee for a sexually oriented business employee license, whether new or renewal, is fifty (\$50.00) dollars. These fees are to be used to pay for the cost of the administration and enforcement of this ordinance. (as added by Ord. #01-02-01, March 2001)

**9-407. Inspection.** (1) An applicant or licensee shall permit representatives of the police department, sheriffs department, health department, fire department, building department, or other town or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is open for business.

(2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he/she refuses to promptly permit such lawful inspection of the premises. (as added by Ord. #01-02-01, March 2001)

**9-408. Expiration of license.** (1) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 9-404. Application for renewal should be made at least forty- five (45) days before the expiration date. When application is made less than forty- five (45) days before the expiration date, the expiration of the license will not be affected.

(2) When the director denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. (as added by Ord. #01-02-01, March 2001)

**9-409. Suspension.** The director shall suspend a license for a period not to exceed thirty (30) days if he determines that licensee or an employee of licensee has:

(1) Violated or is not in compliance with any section of this ordinance;

- (2) Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or controlled substances;
- (3) Refused to allow prompt inspection of the sexually oriented business premises as authorized by this ordinance;
- (4) With knowledge, permitted gambling by any person on the sexually oriented business premises. (as added by Ord. #01-02-01, March 2001)

**9-410. Revocation.** (1) The director shall revoke a license if a cause of suspension in § 9-409 occurs and the license has been suspended within the proceeding twelve(12) months.

- (2) The director shall revoke a license if he determines that:
  - (a) A licensee gave false or misleading information in the material submitted during the application process;
  - (b) A licensee, or a person with whom the licensee is residing, was convicted of a "specified criminal activity" on a charge that was pending prior to the issuance of the license;
  - (c) A licensee has, with knowledge, permitted the possession, use, or sale of controlled substances on the premises;
  - (d) A licensee has, with knowledge, permitted the sale, use, or consumption of alcoholic beverages on the premises;
  - (e) A licensee has, with knowledge, permitted prostitution on the premises;
  - (f) A licensee has, with knowledge, operated the sexually oriented business during a period of time when the licensee's license was suspended;
  - (g) A licensee has, with knowledge, permitted any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;
  - (h) A licensee is delinquent in payment to the town or state for any taxes or fees;
  - (i) A licensee has, with knowledge, permitted a person under eighteen (18) years of age to enter the establishment; or
  - (j) A licensee has attempted to sell his business license, or has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee of the establishment;
  - (k) A licensee has, with knowledge, permitted a person or persons to engage in specified sexual activities on the premises of the sexually oriented business.

(3) When the director revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one(1) year from the date revocation became effective. (as added by Ord. #01-02-01, March 2001)

**9-411. Judicial review.** After denial of an initial or renewal application by the director and board of mayor and aldermen, or suspension or revocation of a license by the director, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (as added by Ord. #01-02-01, March 2001)

**9-412. No transfer of license.** A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (as added by Ord. #01-02-01, March 2001)

**9-413. Location restrictions.** Sexually oriented businesses shall be permitted in any commercial district provided that:

- (1) The sexually oriented business may not be operated within:
  - (a) 1,000 feet of a church, synagogue or regular place of religious worship;
  - (b) 1,000 feet of a public or private elementary or secondary school;
  - (c) 1,000 feet of a boundary of any residential district;
  - (d) 1,000 feet of a public park
  - (e) 1,000 feet of a licensed day- care center;
  - (f) 1,000 feet of an entertainment business that is oriented primarily towards children or family entertainment; or
  - (g) 1,000 feet of another sexually oriented business.

(2) A sexually oriented business may not be operated in the same building, structure, or portion thereof, containing another sexually oriented business that is classified in accordance with § 9-403.

(3) For the purpose of this ordinance, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day care center, or child or family entertainment business.

(4) For purposes of subsection (3) of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located. (as added by Ord. #01-02-01, March 2001)

**9-414. Non-conforming uses; amortization.** (1) Any business lawfully operating on the effective date of this ordinance that is in violation of the

locational or structural configuration requirements of this ordinance shall be deemed a non-conforming use. The non-conforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operated at a particular location is the conforming use and the later-established business(es) is non-conforming.

(2) A sexually oriented business lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care center, public park, residential district, or child or family entertainment business within one thousand (1,000) feet of the sexually oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked. (as added by Ord. #01-02-01, March 2001)

**9-415. Additional regulations for adult motels.** (1) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this chapter.

(2) It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(3) For purposes of subsection (2) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(4) Violation of subsection (2) of this section shall constitute a misdemeanor. (as added by Ord. #01-02-01, March 2001)

**9-416. Additional regulations for escort agencies.** (1) An escort agency shall not employ any person under the age of 18 years.

(2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

(3) Violation of this section shall constitute a misdemeanor. (as added by Ord. #01-02-01, March 2001)

**9-417. Additional regulations for nude model studios.** (1) A nude model studio shall not employ any person under the age of 18 years.

(2) A person under the age of 18 years commits a misdemeanor if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to the public view or visible by any other person.

(3) A person commits a misdemeanor if the person appears in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (as added by Ord. #01-02-01, March 2001)

**9-418. Additional regulations concerning public nudity.** (1) It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a state of nudity in a sexually oriented business, or depicts specified sexual activities in a sexually oriented business.

(2) It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a semi-nude condition on the sexually oriented business premises, unless the person is an employee who, while semi-nude, is at least ten (10) feet from any patron or customer and on a stage at least two (2) feet from the floor.

(3) It shall be a misdemeanor for an employee, while semi-nude on the sexually oriented business premises, to solicit any pay or gratuity from any patron or customer, or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude.

(4) It shall be a misdemeanor for an employee, while semi-nude, to touch a patron or the clothing of a patron, or for a patron to touch a semi-nude employee or the clothing of a semi-nude employee, while said employee is on the premises of the sexually oriented business. (as added by Ord. #01-02-01, March 2001)

**9-419. Regulations pertaining to exhibition of sexually explicit films and videos.** (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's

stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty- two (32) square feet of floor area. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since said diagram was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the director or his designee.

(d) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection (e) of this section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks, or other object(s) shall obstruct from view of the manager's station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as

designated in the application filed pursuant to subsection (a) of this section.

(g) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-candle as measured at the floor level.

(h) It shall be the duty of the operator, and it shall also be the duty of any agents and employee present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(i) No viewing room or booth may be occupied by more than one person at any time.

(j) No opening of any kind shall exist between viewing rooms or booths.

(k) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one person at a time occupies a viewing booths or rooms, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.

(l) The operator of the sexually oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The operator of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The operator of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48") inches of the floor.

(2) A person having a duty under subsection (a) through (n) of this section commits a misdemeanor if he/she, with knowledge, fails to fulfill that duty. (as added by Ord. #01-02-01, March 2001)

**9-420. Exterior portions of sexually oriented businesses.** (1) It shall be unlawful for an owner or operator of sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

(2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this ordinance.

(3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(a) The establishment is a part of a commercial multi-unit center; and

(b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(5) A violation of any provision of this section shall constitute a misdemeanor. (as added by Ord. #01-02-01, March 2001)

**9-421. Signage.** (1) Notwithstanding any other town ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

(a) Not contain any flashing lights;

(b) Be a flat plane, rectangular in shape;

(c) Not exceed seventy-five (75) square feet in area; and

(d) Not exceed ten (10) feet in height or ten (10) feet in length.

(3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.

(4) Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.

(5) Secondary signs shall have only one (1) display surface. Such display surface shall:

(a) Be a flat plane, rectangular in shape;

(b) Not exceed twenty (20) square feet in area;

(c) Not exceed five (5) feet in height and four (4) feet in width;

and

(d) Be affixed or attached to any wall or door of the enterprise.

(6) The provisions of item (a) of subsection (2) and subsection (3) and (4) shall also apply to secondary signs.

(7) Violation of any provision of this section shall constitute a misdemeanor. (as added by Ord. #01-02-01, March 2001)

**9-422. Sale, use, or consumption of alcoholic beverages prohibited.**

(1) The sale, use, or consumption of alcoholic beverages on the premises of a sexually oriented business is prohibited.

(2) Any violation of this section shall constitute a misdemeanor. (as added by Ord. #01-02-01, March 2001)

**9-423. Persons younger than eighteen prohibited from entry; attendant required.** (1) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time the sexually oriented business is open for business.

(2) It shall be the duty of the operator of each sexually oriented business to ensure that an attendant stationed at each public entrance to the sexually oriented business at all times during such sexually oriented business's regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

(a) A valid operator's, commercial operator's or chauffeur's driver's license; or

(b) A valid personal identification certificate issued by the State of Tennessee reflecting that such person is eighteen (18) years of age or older.

(3) Violation of this section shall constitute a misdemeanor. (as added by Ord. #01-02-01, March 2001)

**9-424. Messages or baths administered by person of opposite sex.** It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this section shall constitute a misdemeanor. (as added by Ord. #01-02-01, March 2001)

**9-425. Hours of operation.** No sexually oriented business, except for an adult motel, may remain open any time between the hours of one o' clock (1:00) A.M. and eight o' clock (8:00) A.M. on weekdays and Saturdays, and one o' clock (1:00) A.M. and twelve o'clock (12:00) P.M. on Sundays. (as added by Ord. #01-02-01, March 2001)

**9-426. Exemptions.** It is a defense to prosecution under this ordinance that a person appearing in a state of nudity did so in a modeling class operated:

(1) By a propriety school, licensed by the State of Tennessee, a college, junior college, or university supported entirely or partly by taxation;

(2) By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. (as added by Ord. #01-02-01, March 2001)

**9-427. Notices.** (1) Any notice required or permitted to be given by the director or any other town office, division, department or other agency under this ordinance to any applicant, operator or owner of a sexually oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the director or his designee shall cause it to be posted at the principal entrance to the establishment.

(2) Any notice required or permitted to be given to the director by any person under this ordinance shall not be deemed given until and unless it is received in the office of the director.

(3) It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the director in writing of any change of residence or mailing address. (as added by Ord. #01-02-01, March 2001)

**9-428. Injunction.** A person who operates or causes to be operated a sexually oriented business without a valid business license, or in violation of § 9-413 of this ordinance, is subject to a suit for injunction as well as prosecution for criminal violations. Each day a sexually oriented business so operates is a separate offense or violation. (as added by Ord. #01-02-01, March 2001)

## TITLE 10

ANIMAL CONTROL

## CHAPTER

1. IN GENERAL.
2. DOGS.

## CHAPTER 1

IN GENERAL

## SECTION

- 10-101. Running at large prohibited.
- 10-102. Adequate food, water, and shelter, etc., to be provided.
- 10-103. Keeping in such manner as to become a nuisance prohibited.
- 10-104. Cruel treatment prohibited.
- 10-105. Seizure and disposition of animals.
- 10-106. Inspections of premises.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

10-102. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter, and ventilation are not adequate and sufficient for the preservation of its health and safety.

All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.

10-103. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason.

10-104. Cruel treatment prohibited. It shall be unlawful for any person to beat or otherwise abuse or injure any dumb animal or fowl.

10-105. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by the health officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is

known he shall be given notice in person, by telephone, or by a postcard addressed to his last-known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance.

10-106. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the health officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter.

## CHAPTER 2

DOGS

## SECTION

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

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law.

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section.

10-203. Running at large prohibited.<sup>1</sup> It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits.

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons.

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood.

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the health officer or chief of police may

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<sup>1</sup>State law reference

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

cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.

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

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

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<sup>1</sup>State law reference

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

## TITLE 11

MUNICIPAL OFFENSES<sup>1</sup>

## CHAPTER

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

## CHAPTER 1

ALCOHOL<sup>2</sup>

## SECTION

11-101. Drinking beer, etc., on streets, etc.

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

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<sup>1</sup>Municipal code references

Animals and fowls: title 10.

Housing and utilities: title 12.

Fireworks and explosives: title 7.

Traffic offenses: title 15.

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

<sup>2</sup>Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

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

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Assault and battery.

11-301. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery upon another person.

## CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

## SECTION

11-401. Disturbing the peace.

11-402. Anti-noise regulations.

11-401. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

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

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

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

(c) Yelling, shouting, hooting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

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

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

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

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

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

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

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

(a) Town vehicles. Any vehicle of the town while engaged upon necessary public business.

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

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

## CHAPTER 5

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

## SECTION

- 11-501. Escape from custody or confinement.
- 11-502. Impersonating a government officer or employee.
- 11-503. False emergency alarms.
- 11-504. Resisting or interfering with an officer.
- 11-505. Coercing people not to work.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the town to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement.

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

11-503. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act.

11-504. Resisting or interfering with an officer. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the municipality while such officer or employee is performing or attempting to perform his municipal duties.

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It expressly is not the purpose of this section to prohibit peaceful picketing.

## CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

## SECTION

11-601. Air rifles, etc.

11-602. Throwing missiles.

11-603. Weapons and firearms generally.

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

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

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

## CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE  
WITH TRAFFIC

## SECTION

11-701. Trespassing.

11-702. Malicious mischief.

11-703. Interference with traffic.

11-701. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

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

11-702. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him.

11-703. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon.

## CHAPTER 8

MISCELLANEOUS

## SECTION

11-801. Abandoned refrigerators, etc.

11-802. Caves, wells, cisterns, etc.

11-803. Posting notices, etc.

11-804. Curfew for minors.

11-805. Wearing masks.

11-801. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door.

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

11-803. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device upon any public or private property unless legally authorized to do so.

11-804. Curfew for minors. It shall be unlawful for any person, under the age of eighteen (18) years to be abroad at night between 11:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor.

It shall be unlawful for any person under the age of eighteen (18) years to be abroad on Halloween night of each year between 9:00 P.M. and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor.

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

(1) Children under the age of ten (10) years.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the town clerk/recorder to wear a traditional holiday costume.

**TITLE 12**

**BUILDING, UTILITY, ETC. CODES**

**CHAPTER**

1. STANDARD CODES ADOPTED.
- 2.-5. [DELETED].
6. MODEL ENERGY CODE.

**CHAPTER 1**

**STANDARD CODES ADOPTED**<sup>1</sup>

**SECTION**

- 12-101. Codes adopted.
- 12-102. Modifications.
- 12-103. Fees.
- 12-104. Available in recorder's office.
- 12-105. Penalty clause.

**12-101. Codes adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, the following codes are hereby adopted by reference as though they were copied herein fully:

- International Building Code, 2009 Edition
- International Residential Code, 2009 Edition
- International Fire Code, 2009 Edition
- International Fuel Gas Code 2009 Edition
- International Mechanical Code, 2009 Edition
- International Plumbing Code, 2009 Edition
- National Electrical Code, 2008 Edition
- 2002 North Carolina State Handicap Code with 2004 Amendments
- International Energy Conservation Code, 2009 Edition
- International Property Maintenance Code, 2009 Edition
- International Existing Building Code, 2009 Edition

(as replaced by Ord. #04-08-01, Sept. 2004, Ord. #10.08.03, Sept. 2010, and Ord. #12.03.01, April 2012)

**12-102. Modifications.** The following modifications to the above listed codes are hereby adopted:

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<sup>1</sup>Municipal code reference  
Fire code: title 7, chapter 3.

(1) Definitions. Whenever any code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall mean such person as the mayor shall have appointed to administer and enforce the provisions of the codes.

(2) Amendment 1. Framing members shall be placed no more than sixteen inches (16") on center. An exception to this spacing shall be allowed for rafters. Rafters may be placed twenty four inches (24") on center provided that: roof sheathing is no less than five eighths inch (5/8") plywood with approved clips or three fourths inch (3/4") nominal thickness boards. Rafters not nailed directly to ceiling joists must be installed at the top plate with approved metal fastening straps (hurricane clips).

(3) Amendment 2. In all new construction, no copper pipes shall be installed in any premises connecting to any water system in the Town of Oakland.

(4) Amendment 3. Omit Section R313 Automatic Fire Sprinkler Systems (2009 International Residential Building Code). (as amended by Ord. #1-98-7, Feb. 1998, and replaced by Ord. #04-08-01, Sept. 2004, Ord. #10.08.03, Sept. 2010, and Ord. #12.03.01, April 2012)

**12-103. Fees.** All fees for inspections and permits under the above codes shall be those fees as adopted by the Oakland Board of Mayor and Aldermen by resolution and said fees for inspections and permits may be changed by resolution of the board of mayor and aldermen. (as replaced by Ord. #04-08-01, Sept. 2004, Ord. #10.08.03, Sept. 2010, and 12.03.01, April 2012)

**12-104. Available in recorder's office.** Copies of the codes have been placed on file in the recorder's office and shall be there for the use and inspection of the public. (as replaced by Ord. #04-08-01, Sept. 2004, Ord. #10.08.03, Sept. 2010, and 12.03.01, April 2012)

**12-105. Penalty clause.** It shall be unlawful for any person to violate or fail to comply with any provision of the codes as herein adopted by reference and modified. The violation of any section of this chapter shall be punished by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #04-08-01, Sept. 2004 and replaced by Ord. #10.08.03, Sept. 2010, and 12.03.01, April 2012)

Change 2, June 16, 2016

12-3

**CHAPTERS 2 - 5**

**[DELETED]**

(as deleted by Ord. #04-08-01, Sept. 2004)

## CHAPTER 6

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

#### SECTION

- 12-601. Model energy code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violation and penalty.

**12-601. Model energy code adopted.** Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the design of buildings for adequate thermal resistance and low air leakage and the design and selection of mechanical, electrical, water-heating and illumination systems and equipment which will enable the effective use of energy in new building construction, the Model Energy Code,<sup>2</sup> 1992 edition, as prepared and maintained by The Council of American Building Officials, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code.

**12-602. Modifications.** Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the Town of Oakland. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the board of mayor and aldermen shall have appointed or designated to administer and enforce the provisions of the energy code.

**12-603. Available in recorder's office.** Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 13-19-106 requires Tennessee cities either to adopt the Model Energy Code, 1992 edition, or to adopt local standards equal to or stricter than the standards in the energy code.

Municipal code references

Fire protection, fireworks, and explosives: title 7.

Planning and zoning: title 14.

Streets and other public ways and places: title 16.

Utilities and services: titles 18 and 19.

<sup>2</sup>Copies of this code (and any amendments) may be purchased from The Council of American Building Officials, 5203 Leesburg Pike, Falls Church, Virginia 22041.

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

**12-604. Violation and penalty.** It shall be a civil offense for any person to violate or fail to comply with any provision of the energy code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

**TITLE 13**

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

**CHAPTER**

1. MISCELLANEOUS.
2. JUNKYARDS.
3. SLUM CLEARANCE.
4. REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS.
5. JUNKED MOTOR VEHICLES.
6. REAL PROPERTY RENTAL REGULATIONS.

**CHAPTER 1**

**MISCELLANEOUS**

**SECTION**

- 13-101. Health officer.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.

**13-101. Health officer.** The "health officer" shall be such municipal, county, or state officer as the governing body shall appoint or designate to administer and enforce health and sanitation regulations within the municipality.

**13-102. Smoke, soot, cinders, etc.** It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.

**13-103. Stagnant water.** It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.

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<sup>1</sup>Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-211(10).

**13-104. Weeds.** Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the town clerk/recorder or chief of police to cut such vegetation when it has reached a height of over one (1) foot.

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

**13-106. Health and sanitation nuisances.** It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity.

**CHAPTER 2****JUNKYARDS****SECTION**

## 13-201. Junkyards.

**13-201. Junkyards.**<sup>1</sup> All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

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<sup>1</sup>State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

## CHAPTER 3

### SLUM CLEARANCE

#### SECTION

- 13-301. Definitions.
- 13-302. Dwelling unfit for habitation to be repaired, closed or demolished.
- 13-303. Procedure for abating unfit dwellings.
- 13-304. Conditions rendering dwelling unfit for human habitation.
- 13-305. Service of complaints or orders.
- 13-306. Enjoining enforcement of order.
- 13-307. Powers of the public officer.
- 13-308. Annual expenses and cost.
- 13-309. Chapter confers supplementary powers and procedures.

**13-301. Definitions.** The following terms whenever used or referred to in this chapter shall have the following respective meanings for the purposes of this chapter, unless a different meaning clearly appears from the context:

- (1) "Municipality" shall mean the Town of Oakland.
- (2) "Governing body" shall mean the Board of Mayor and Aldermen of the Town of Oakland.
- (3) "Public Officer" shall mean the mayor, town administrator, or designated representative. He is hereby designated and authorized to exercise the powers prescribed by this chapter and by Tennessee Code Annotated, title 13, chapter 21.
- (4) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the municipality state relating to health, fire, building regulations, or other activities concerning dwellings in the municipality.
- (5) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record.
- (6) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.
- (7) "Dwelling" shall mean any building or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. (Ord. #92-1, Jan. 1992)

**13-302. Dwelling unfit for habitation to be repaired, closed or demolished.** The Town of Oakland hereby finds that there exists in this municipality dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such

dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of this municipality, and, therefore, hereby ordains that such dwellings shall be repaired, closed or demolished in the manner herein provided. (Ord. #92-1, Jan. 1992)

**13-303. Procedure for abating unfit dwellings.** (1) Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the municipality charging that any dwelling is unfit for human habitation, or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest of such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of said complaint; that 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 give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

(2) If after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

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

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

(3) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered, or improved, or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

(4) If the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished.

(5) The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred. If the dwelling is removed or demolished by the public officer, he shall sell the materials of such dwelling and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court, provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (Ord. #92-1, Jan. 1992)

**13-304. Conditions rendering dwelling unfit for human habitation.** The public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of the municipality; such conditions may include the following (without limiting the generality of the foregoing); defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; uncleanliness. (Ord. #92-1, Jan. 1992)

**13-305. Service of complaints or orders.** Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons either personally or by registered mail, but if the whereabouts of such person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the municipality, or in the absence of such newspaper, in one printed and published in the county and circulating in the municipality. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the register's office of Fayette County, and such filing of the complaint or order shall have the same force and effect as other lis pendens notices provided by law. (Ord. #92-1, Jan. 1992)

**13-306. Enjoining enforcement of order.** Any person affected by an order issued by the public officer may file a bill in the chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such bill, issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court. Hearings shall be had by the court on such bills within twenty (20) days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar.

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 public officer 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 public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (Ord. #92-1, Jan. 1992)

**13-307. Powers of the public officer.** The public officer is hereby 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 in addition to others herein granted:

- (1) To investigate the dwelling conditions in the municipality in order to determine which dwellings therein are unfit for human habitation;
- (2) To administer oaths, affirmations, examine witnesses and receive evidence;
- (3) To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
- (4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and
- (5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (Ord. #92-1, Jan. 1992)

**13-308. Annual expenses and costs.** The board of mayor and aldermen hereby estimates that nine thousand (\$9,000) will be necessary to meet the annual expenses or costs necessary to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwellings in the municipality, for the purpose of determining the fitness of such dwellings for human habitation, and for the enforcement and administration of this chapter. In addition to making appropriations from its revenues, the town may accept and apply grants or donations to assist it in carrying out the provisions of this chapter. (Ord. #92-1, Jan. 1992)

**13-309. Chapter confers supplementary powers and procedures.**

Nothing in this chapter shall be construed to abrogate or impair the powers of the courts or of any department of the municipality to enforce any provisions of its charter or other ordinances or regulations, nor to prevent or punish violations thereof, and the powers and procedures prescribed by this chapter shall be in addition and supplemental to the powers conferred by any other law. (Ord. #92-1, Jan. 1992)

## CHAPTER 4

### REMOVAL OF VEGETATION AND DEBRIS FROM CERTAIN LOTS

#### SECTION

- 13-401. Prohibition of overgrown and dirty.
- 13-402. Designation of public officer or department.
- 13-403. Notice to property owner.
- 13-404. Clean-up at property owner's expense.
- 13-405. Clean-up of owner-occupied property.
- 13-406. Appeal.
- 13-407. Judicial review.
- 13-408. Supplemental nature of this section.

**13-401. Prohibition of overgrown and dirty.** Pursuant to the authority granted to municipalities under Tennessee Code Annotated, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals. (as added by Ord. #09.06.04, July 2009)

**13-402. Designation of public officer or department.** Town clerk/recorder, chief of police or building inspector (department or person) is hereby designated to enforce the provision of this chapter. (as added by Ord. #09.06.04, July 2009)

**13-403. Notice to property owner.** It shall be the duty of the department or person designated by the board of mayor and alderman to enforce this chapter to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner record. The notice shall state that the owner of the property is entitled to a hearing, and shall at the minimum, contain the following additional information:

(1) A brief statement that the owner is in violation of § 13-104 of the Town of Oakland Municipal Code, which has been enacted under the authority of Tennessee Code Annotated, § 6-54-113, and that the property to secure the cost of the clean-up;

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

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

(4) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing. (as added by Ord. #09.06.04, July 2009)

**13-404. Clean-up at property owner's expense.** If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice (twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or person designated by the board of mayor and alderman to enforce the provisions of this chapter shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the cost thereof shall be assessed against the owner of the property. The city may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The city may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in county, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. (as added by Ord. #09.06.04, July 2009)

**13-405. Clean-up of owner-occupied property.** When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of commissioners to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of § 13-404 shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on

the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in § 13-404 for these charges. (as added by Ord. #09.06.04, July 2009)

**13-406. Appeal.** The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of commissioners. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to § 13-403 above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing. (as added by Ord. #09.06.04, July 2009)

**13-407. Judicial review.** Any person aggrieved by an order or act of the board of commissioners under § 13-404 above may seek judicial review of the order or act. The time period established in § 13-403 above shall be stayed during the pendency of judicial review. (as added by Ord. #09.06.04, July 2009)

**13-408. Supplemental nature of this section.** The provisions of this chapter are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (as added by Ord. #09.06.04, July 2009)

## CHAPTER 5

### JUNKED MOTOR VEHICLES

#### SECTION

- 13-501. Definitions.
- 13-502. Violations a civil offense.
- 13-503. Exceptions.
- 13-504. Enforcement.
- 13-505. Penalty for violations.

**13-501. Definitions.** For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:

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

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

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

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

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one (1) or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

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

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

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including,

but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.

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

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

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

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

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle. (as added by Ord. #13-04, May 2013)

**13-502. Violations a civil offense.** It shall be unlawful and a civil offense for any person:

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

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

(3) To park, store, keep, maintain on private property a junk vehicle. (as added by Ord. #13-04, May 2013)

**13-503. Exceptions.** (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:

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

zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

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

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (as added by Ord. #13-04, May 2013)

**13-504. Enforcement.** Pursuant to Tennessee Code Annotated, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the city judge to issue a summons, or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by Tennessee Code Annotated, § 7-63-101 et seq., or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. In addition, pursuant to Tennessee Code Annotated, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. (as added by Ord. #13-04, May 2013)

**13-505. Penalty for violations.** Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues shall be considered a separate violation. (as added by Ord. #13-04, May 2013)

## CHAPTER 6

### REAL PROPERTY RENTAL REGULATIONS

#### SECTION

- 13-601. Registration required.
- 13-602. Registration application.
- 13-603. Property maintenance.
- 13-604. Exemptions.
- 13-605. Records.
- 13-606. Other actions, prosecutions, court cases.
- 13-607. Nuisances, injunction.
- 13-608. Enforcement.
- 13-609. Penalty for violation.
- 13-610. Saving clause.
- 13-611. Severability.

**13-601. Registration required.** All owners of real property located within the Town of Oakland's ("Oakland") city limits shall register the real property if used as "rental property." An owner shall file a registration application with the Town of Oakland within thirty (30) days after assuming ownership or control of the rental property, after altering the number or size of rental units at a previously registered property or after converting real property to rental property. All owners of rental property shall file a registration application for their rental property within sixty (60) days after the effective date of the ordinance enacting this chapter. The owner shall be responsible for all sub-leasing of his rental property. (as added by Ord. #15-18, Jan. 2016)

**13-602. Registration application.** Registration shall be made upon forms furnished by Oakland and shall specifically require the following minimum information:

- (1) Name, address, and telephone number of property owner and, if different, property manager;
- (2) The street address of the rental property; and
- (3) The name, address, and telephone number of the person authorized to make or order repairs or services to the property, if the person is different from the owner or manager.

The rental property registration forms for Oakland are available in the recorder's office.<sup>1</sup> (as added by Ord. #15-18, Jan. 2016)

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<sup>1</sup>The rental property registration form for the Town of Oakland (and any amendments) is available in the recorder's office.

**13-603. Property maintenance.** All rental units shall comply with the International Property Maintenance Code as adopted by Oakland. (as added by Ord. #15-18, Jan. 2016)

**13-604. Exemptions.** This chapter shall not apply to the following:

- (1) Residential rental units owned and operated by any governmental agency;
- (2) Residential rental units licensed and inspected by the state;
- (3) Hotels that do not rent to permanent residents;
- (4) Nursing homes or assisted living or retirement facilities; and
- (5) Apartment complexes that already keep the required registration information on file and accessible, have more than four (4) units and have on-site property managers. (as added by Ord. #15-18, Jan. 2016)

**13-605. Records.** All records, files, and documents pertaining to the rental registry shall be maintained by Oakland and made available to the public as allowed or required by state law or Oakland ordinance. (as added by Ord. #15-18, Jan. 2016)

**13-606. Other actions, prosecutions, court cases.** Nothing in this chapter shall prevent Oakland from taking action, including injunctive relief or criminal prosecution, under, and/or for a violation of, any law, ordinance, including its zoning ordinances, or code including, but not limited to, fire, building, health, safety or technical, against any owner, occupier, user or manager, of any rental property covered by this chapter. (as added by Ord. #15-18, Jan. 2016)

**13-607. Nuisances, injunction.** Any violation of this chapter is hereby declared a nuisance. In addition to any other relief provided by this chapter, the town attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction. (as added by Ord. #15-18, Jan. 2016)

**13-608. Enforcement.** Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the Oakland building and code inspector is authorized to issue an ordinance summons to an offender for a violation of this chapter. The building and code inspector shall, upon the complaint of any citizen, or acting on his own initiative, investigate complaints regarding code violations. If, after such investigation, the building and code inspector finds a violation, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner of the property deemed in violation and, if different, the offending property's occupier, user and/or manager, and shall give notice to the offender to appear and answer charges against him. If the offender refuses to sign the

agreement to appear, the building and code inspector may request a police officer to witness the violation, and that officer may issue the offender a citation, as authorized by Tennessee Code Annotated, § 7-63-101 et. seq. (as added by Ord. #15-18, Jan. 2016)

**13-609. Penalty for violation.** Any property owner violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. Each day the violation of this chapter continues, it shall constitute a separate violation. (as added by Ord. #15-18, Jan. 2016)

**13-610. Saving clause.** Nothing in this chapter shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed pursuant to this chapter, nor shall any just and legal right or remedy of any character be lost, impaired or affected by this chapter. (as added by Ord. #15-18, Jan. 2016)

**13-611. Severability.** The various parts, sections, and clauses of this chapter are hereby declared to be severable. If any part, sentence, paragraph, section, or clause is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the chapter shall not be affected thereby. (as added by Ord. #15-18, Jan. 2016)

**TITLE 14**

**ZONING AND LAND USE CONTROL**

**CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

**CHAPTER 1**

**MUNICIPAL PLANNING COMMISSION**<sup>1</sup>

**SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

**14-101. Creation and membership.** Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission hereinafter referred to as the planning commission for the Town of Oakland. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall receive such compensation as set by the board of mayor and alderman by resolution. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for three (3) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3) years, four (4) years, and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointed member at his/her will and pleasure. (as amended by Ord. #01.12.01, Jan. 2002, as replaced by Ord. #11.06.02, July 2011)

**14-102. Organization, powers, duties, etc.** The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of Tennessee Code Annotated, title 13.

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<sup>1</sup>The Town of Oakland opts out of the continuing education requirement for the planning commission by Ord. 11.1.02, Feb. 17, 2011.

**14-103. Additional powers.**<sup>1</sup> Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions.

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<sup>1</sup>State law reference

To make this section effective the municipality should request the State Planning Office, under authority granted by Tennessee Code Annotated, § 13-3-102 to designate the municipal planning commission as a regional planning commission.

**CHAPTER 2****ZONING ORDINANCE****SECTION**

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

14-202. Violations and penalty.

**14-201. Land use to be governed by zoning ordinance.** Land use within the Town of Oakland shall be governed by Ordinance Number 03.06.01, titled "Zoning Ordinance, \_\_\_\_\_, Tennessee," and any amendments thereto.<sup>1</sup>

**14-202. Violations and penalty.** Violations of the zoning ordinance shall subject the offender to a penalty of up to five hundred dollars (\$500) for each offense. Each day a violation is allowed to continue shall constitute a separate offense.

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<sup>1</sup>Ordinance No. 03.06.01, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

**TITLE 15**

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

**CHAPTER**

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

**CHAPTER 1**

**MISCELLANEOUS<sup>2</sup>**

**SECTION**

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

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<sup>1</sup>Municipal code reference

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

<sup>2</sup>State law references

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

- 15-113. Driving through funerals or other processions.
- 15-114. Clinging to vehicles in motion.
- 15-115. Riding on outside of vehicles.
- 15-116. Backing vehicles.
- 15-117. Projections from the rear of vehicles.
- 15-118. Causing unnecessary noise.
- 15-119. Vehicles and operators to be licensed.
- 15-120. Passing.
- 15-121. Damaging pavements.
- 15-122. Bicycle riders, etc.
- 15-123. Compliance with financial responsibility law required.
- 15-124. Basketball goals alongside or within public rights-of-way.
- 15-125. Drivers to exercise due care.

**15-101. Motor vehicle requirements.** It shall be unlawful for any person to operate any motor vehicle within the corporate limits unless such vehicle is equipped with properly operating muffler, lights, brakes, horn, and such other equipment as is prescribed and required by Tennessee Code Annotated, title 55, chapter 9.

**15-102. Driving on streets closed for repairs, etc.** Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose.

**15-103. Reckless driving.** Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property.

**15-104. One-way streets.** On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction.

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

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the town for one-way traffic.

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

overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn.

**15-106. Laned streets.** On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

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

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

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer.

**15-109. General requirements for traffic-control signs, etc.** All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,<sup>2</sup> published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the town. This section shall not be construed as being mandatory but is merely directive.

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<sup>1</sup>Municipal code references

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

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

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

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

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

**15-113. Driving through funerals or other processions.** Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated.

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

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

**15-116. Backing vehicles.** The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic.

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

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

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

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

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

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

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

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

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety.

**15-121. Damaging pavements.** No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or

otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street.

**15-122. Bicycle riders, etc.** Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, or motor driven cycles.

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

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

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

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

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

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

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

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

**15-123. Compliance with financial responsibility law required.**

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

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the

officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under Tennessee Code Annotated, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1977, compiled in Tennessee Code Annotated, chapter 12, title 55, has been paid or filed with the commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) Civil offense. It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a civil penalty of up to fifty dollars (\$50). The civil penalty prescribed by this section shall be in addition to any other penalty prescribed by the laws of this state or by the city's municipal code of ordinances.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #02.02.03, March 2002)

**15-124. Basketball goals alongside or within public rights-of-way.**

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

(2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50). (as added by Ord. #03.08.02, Sept. 2003)

**15-125. Drivers to exercise due care.** (1) 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.

(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 roadway right of way, by operating the motor vehicle at a safe speed, by maintaining a safe lookout, by keeping the motor vehicle under proper control and by devoting full time and attention to operating the motor vehicle, under the existing circumstances to avoid endangering life, limb or property.

(3) Any person violating this section be guilty of an offense and upon conviction shall pay a penalty of not less than one dollar(\$1. 00) nor more than fifty dollars (\$50.00) for each offense. (as added by Ord. #09.07.05, Aug. 2009)

## CHAPTER 2

### EMERGENCY VEHICLES

#### SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

**15-201. Authorized emergency vehicles defined.** Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police.

**15-202. Operation of authorized emergency vehicles.**<sup>1</sup> (1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

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<sup>1</sup>Municipal code reference

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

**15-203. Following emergency vehicles.** No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.

**15-204. Running over fire hoses, etc.** It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman.

## CHAPTER 3

### SPEED LIMITS

#### SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

**15-301. In general.** It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. The speed limit on Highway 64 within the corporate boundaries of the Town of Oakland, Tennessee shall be forty-five (45) miles per hour. (as amended by Ord. #02.01.02, Feb. 2002)

**15-302. At intersections.** It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets.

**15-303. In school zones.** Generally, pursuant to Tennessee Code Annotated, § 55-8-152, special speed limits in school zones shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

When the governing body has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of forty (40) minutes before the opening hour of a school or a period of forty (40) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

**15-304. In congested areas.** It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality.

## CHAPTER 4

### TURNING MOVEMENTS

#### SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

**15-401. Generally.** No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.<sup>1</sup>

**15-402. Right turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.

**15-403. Left turns on two-way roadways.** At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways.

**15-404. Left turns on other than two-way roadways.** At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered.

**15-405. U-turns.** U-turns are prohibited.

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 5

### STOPPING AND YIELDING

#### SECTION

15-501. Deleted.

15-502. When emerging from alleys, etc.

15-503. To prevent obstructing an intersection.

15-504. At "stop" signs.

15-505. At "yield" signs.

15-506. At traffic-control signals generally.

15-507. At flashing traffic-control signals.

15-508. At pedestrian control signals.

15-509. Stops to be signaled.

**15-501. Deleted.** (as replaced by Ord. #09.07.04, Aug. 2009, and deleted by Ord. #09.10.04, Nov. 2009)

**15-502. When emerging from alleys, etc.** The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles.

**15-503. To prevent obstructing an intersection.** No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed.

**15-504. At "stop" signs.** The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety.

**15-505. At "yield" signs.** The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted.

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

(1) Green alone, or "Go":

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

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

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

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

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

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

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

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

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

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

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

**15-507. At flashing traffic-control signals.** (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the town it shall require obedience by vehicular traffic as follows:

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

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code.

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

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

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

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

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 55-8-143.

## CHAPTER 6

### PARKING

#### SECTION

15-601. Generally.

15-602. Angle parking.

15-603. Occupancy of more than one space.

15-604. Where prohibited.

15-605. Loading and unloading zones.

15-606. Presumption with respect to illegal parking.

15-607. Certain vehicles parking on residential streets and lots.

**15-601. Generally.** No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

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

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

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street.

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

**15-603. Occupancy of more than one space.** No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space.

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

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

**15-605. Loading and unloading zones.** No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone.

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

**15-607. Certain vehicles parking on residential streets and lots.**

(1) **Definitions.** For the purpose of enforcing this section, the term:

(a) "Canopy" shall mean an extension of the roof of a building or a freestanding structure that has a roof with support, but no walls.

(b) "Carport" shall mean a canopy attached to the main building, open and to remain open on two sides providing a sheltered place for parking an automobile and for entering and alighting from said automobile.

(c) "Driveway" shall mean a paved or gravel way, on private property, providing access from a public way, street or alley, to the main buildings, carport, garage, parking space or other portion of the premises.

(d) "Front yard" shall mean the area of a residential lot which lies between the property line adjacent to a public street or right-of-way and the building wall of the residential structure, extending from the outward corners of the building parallel to the street;

(e) "Garage" shall mean a building or portion thereof for the storage of motor vehicles owned or used by the residents.

(f) "Improved surface" shall mean a continuous area constructed of concrete, asphalt, brick, pavers, or other equivalent material approved by the town prior to installation, but not including gravel or crushed stone.

(g) "Pads" shall mean the surface on which a trailer, recreational vehicle, boat, camper, or similar type vehicle is located consisting of paving or gravel.

(h) "Rear yard" shall mean the area extending across the full width of a residential lot between the rear lot line and the rear building wall of the residence. For a corner lot, the rear yard includes that portion of the residential lot which is the deepest area of the lot lying between the wall of the residential structure and the property line and is not continued within the side yard.

(i) "Recreational vehicle" shall mean a vehicle which is built on a single chassis, has four hundred (400) square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is not designed primarily for use as a permanent dwelling but as a temporary living quarters for recreational, canoeing travel, or seasonal use.

(j) "Truck type and weight class" shall mean (weight is Gross Vehicle Weight Rating GVWR):

(i) Class One, six thousand pounds (6,000 lbs.) or less and includes, but not limited to, full size pickup, minim pickup, minivan, SUV, and utility van.

(ii) Class Two, six thousand one to ten thousand pounds (6,001 to 10,000 lbs.) and includes, but not limited to, crew size pickup, full size pickup, mini bus, minivan, step van, and utility van.

(iii) Class Three, ten thousand one to fourteen thousand pounds (10,001 to 14,000 lbs.) and includes, but not limited to, city delivery trucks, minibus, and walk in trucks.

(iv) Class Four, fourteen thousand one to sixteen thousand pounds (14,001 to 16,000 lbs.) and includes, but not limited to, city delivery trucks, commercial van, landscape utility, and large walk in trucks.

(v) Class Five, sixteen thousand one to nine thousand five hundred pounds (16,001 to 19,500 lbs.) and includes, but not limited to, bucket, city delivery, and large walk in trucks.

(vi) Class Six, nineteen thousand five hundred one to twenty six thousand pounds (19,501 to 26,000 lbs.) and includes, but not limited to, beverage, rack, school bus, single axle van, and stake body trucks.

(vii) Class Seven, twenty six thousand one to thirty three thousand pounds (26,001 to 33,000 lbs.) and includes, but not

limited to, city transit bus, furniture, high profile semi, home fuel, medium semi tractor, refuse, and tow trucks.

(viii) Class Eight, thirty three thousand pounds (33,001 lbs.) and over includes, but not limited to, cement mixer, dump, fire truck, fuel, heavy semi tractor, refrigerated van, semi sleeper, and tour bus.

(k) "Commercial trailer" includes, but not limited to, auto transport, double van, drop frame, dry bulk, dump trailer, flatbed, flatbed low boy, reefer, tanker, van trailer.

(2) Vehicle parking on residential lots. (a) It shall be unlawful for any person to park or store any automobile, recreational vehicle or any other vehicle designed for passenger use on any unimproved, residentially-zoned building lot in the Town of Oakland.

(b) It shall be unlawful for any person to park or store any automobile or any other vehicle designed for passenger use which exceeds eight feet (8') in height at any point, exceeds twenty (20) feet in length, or which exceeds eight thousand pounds (8,000 lbs.) gross vehicle weight in any portion of the front yard of any residentially-zoned lot in Oakland, except for that portion of the front yard having an improved surface and considered the driveway area of the lot.

(c) It shall be unlawful for any person to store any vehicle which exceeds eight feet (8') in height at any point, exceeds twenty feet (20') in length, or which exceeds eight thousand pounds (8,000 lbs.) gross vehicle weight, and, without regard to size, any recreational vehicles, boats, personal water crafts, motor homes, truck campers, travel trailers, tent trailers, camping trailers, motorized dwellings, fifth wheels, mobile homes, house trailers, trailers, semi-trailers, horse trailers, airplanes, gliders, off-highway motor vehicles, snowmobiles, sand buggies, dune buggies, all-terrain vehicles, tractors, implements of husbandry, special mobile equipment, or any other major recreational equipment except as follow:

(i) In a garage;

(ii) In a carport;

(iii) In a fenced area in the rear yard, but no closer than five feet (5') to any property boundary line and no closer than fifteen feet (15') to the rear line of the principal building, however, motor homes may be parked on a driveway at a residence for up to seventy-two (72) hours in a thirty (30) day period.

(d) Nothing in this section shall be construed to prohibit the short-term, temporary parking of vehicles engaged in the provision of services to the building owners or occupants, including but not limited to, the loading or unloading of furniture, household appliances or other bulky items; construction activities for which a building permit has been secured; building maintenance or repair, emergency activities; any

activity involving the use of a bucket truck or similar equipment; and other temporary activities for which no reasonable parking alternatives exists.

(3) Heavy vehicle parking on residential streets. (a) Heavy vehicle parking prohibited.

(i) Prohibition. It shall be unlawful for any person, firm or corporation owning, operating or having control of any commercial vehicle that is rated as Class Five, Six, Seven, or Eight to park the same upon any street, avenue, alley, public way or yard in any residential area of the town, except on a paved or gravel driveway.

(ii) Nothing in this section shall be construed to prohibit the short-term, temporary parking of vehicles engaged in the provision of services to the building owners or occupants, including but not limited to, the loading or unloading of furniture, household appliances or other bulky items; construction activities for which a building permit has been secured; building maintenance or repair, emergency activities; any activity involving the use of a bucket truck or similar equipment; and other temporary activities for which no reasonable parking alternatives exists.

(3) Penalties. It shall be unlawful for any person to violate this section. Any owner or operator or other person having control of such vehicle or equipment parked upon any street, avenue, alley, unpaved grassy, public way or yard in any residential area of the town in violation of this section may be cited by the police department to appear in the Oakland Municipal Court, may be punishable by a fine of fifty dollars (\$50.00) for each offense, and a separate offense shall be deemed committed for each day in which each separate violation continues, and the court costs shall be charged to the owner or operator or other person having control of such vehicle or equipment. (as added by Ord. #15-9, Dec. 2015)

## CHAPTER 7

### ENFORCEMENT

#### SECTION

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.

**15-701. Issuance of traffic citations.**<sup>1</sup> When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address.

**15-702. Failure to obey citation.** It shall be unlawful for any person to violate his written promise to appear in court after giving said promise to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge for which the citation was originally issued.

**15-703. Illegal parking.** Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation.

For parking violations the offender may waive his right to a judicial hearing and have the charges disposed of out of court, but the fines shall be three dollars (\$3.00) within ten (10) days and five dollars (\$5.00) thereafter.

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

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<sup>1</sup>State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. A fee of twenty-five dollars (\$25.00) per day is hereby established for the release of stored or impounded vehicles that are used by law violators. (as amended by Ord. #10.06.02, July 2010)

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

## TITLE 16

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

#### CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS AND CUTS.

#### CHAPTER 1

#### MISCELLANEOUS

#### SECTION

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

**16-101. Obstructing streets, alleys, or sidewalks prohibited.** No person shall use or occupy any portion of any public street, alley, sidewalk, or right of way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials.

**16-102. Trees projecting over streets, etc., regulated.** It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet.

**16-103. Trees, etc., obstructing view at intersections prohibited.** It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, shrub, sign, or other obstruction which prevents persons

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<sup>1</sup>Municipal code reference

Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection.

**16-104. Projecting signs and awnings, etc., restricted.** Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements established by the board of mayor and aldermen.

**16-105. Banners and signs across streets and alleys restricted.** It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign.

**16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law.

**16-107. Littering streets, alleys, or sidewalks prohibited.** It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes.

**16-108. Obstruction of drainage ditches.** It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way.

**16-109. Abutting occupants to keep sidewalks clean, etc.** The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk.

**16-110. Parades, etc., regulated.** It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the clerk/recorder. No permit shall be issued by the clerk/recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to clean up the resulting litter immediately.

**16-111. Animals and vehicles on sidewalks.** It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section.

**16-112. Fires in streets, etc.** It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk.

**CHAPTER 2****EXCAVATIONS AND CUTS<sup>1</sup>****SECTION**

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

**16-201. Permit required.** It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the city recorder is open for business, and the permit shall be retroactive to the date when the work was begun. (as replaced by Ord. #07.04.03, May 2007)

**16-202. Applications.** Applications for such permits shall be made to the city recorder, or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall

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<sup>1</sup>State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Such application shall be rejected or approved by the city recorder within twenty-four (24) hours of its filing. (as replaced by Ord. #07.04.03, May 2007)

**16-203. Fee.** The fee for such permits shall be twenty dollars (\$20.00). (as replaced by Ord. #07.04.03, May 2007)

**16-204. Deposit or bond.** No such permit shall be issued unless and until the applicant therefor has deposited with the city recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall insure the proper restoration of the ground and, laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the city recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the city of relaying the surface of the ground or pavement, and of making the refill if this is done by the city or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the city recorder a surety bond in such form and amount as the city recorder shall deem adequate to cover the costs to the city if the applicant fails to make proper restoration. (as replaced by Ord. #07.04.03, May 2007)

**16-205. Safety restrictions on excavations.** Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (as replaced by Ord. #07.04.03, May 2007)

**16-206. Restoration of streets, etc.** Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this city shall restore the street, alley, or public place to its original condition except for the surfacing, which shall be done by the city but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the city recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified

reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association, or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (as replaced by Ord. #07.04.03, May 2007)

**16-207. Insurance.** In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the city recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than one hundred thirty thousand dollars (\$130,000.00) for each person and three hundred fifty thousand dollars (\$350,000.00) for each accident, and for property damages not less than fifty thousand dollars (\$50,000.00) for any one (1) accident, and a seventy five thousand dollars (\$75,000.00) aggregate. (as replaced by Ord. #07.04.03, May 2007)

**16-208. Time limits.** Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city recorder. (as replaced by Ord. #07.04.03, May 2007)

**16-209. Supervision.** The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (as replaced by Ord. #07.04.03, May 2007)

**16-210. Violation and penalty.** Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of the city's municipal code, by revocation of permit,

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or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense. (as replaced by Ord. #07.04.03, May 2007)

**TITLE 17**

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

**CHAPTER**

**1. REFUSE.**

**CHAPTER 1**

**REFUSE**<sup>2</sup>

**SECTION**

- 17-101. Applicability.
- 17-102. Definitions.
- 17-103. Premises to be kept clean.
- 17-104. Storage.
- 17-105. Tree and shrub trimmings.
- 17-106. Location of containers.
- 17-107. Disturbing containers.
- 17-108. Collection.
- 17-109. Confiscation of unsatisfactory storage containers.
- 17-110. Storage locations of containers or bins.
- 17-111. Curbside containers regulated.
- 17-112. Notice to remove.
- 17-113. No refuse to be collected unless properly stored.
- 17-114. Collection refuse permits.
- 17-115. Collection vehicles.
- 17-116. Disposal of refuse.
- 17-117. Violations and penalty.

**17-101. Applicability.** The following regulations governing refuse collection shall apply to each owner, occupant, tenant, sub-tenant, lessee, or others using or occupying any building, house, structure, or grounds with the corporate limits of the Town of Oakland where refuse materials or substances as defined in this chapter accumulate or are likely to accumulate. (as replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

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<sup>1</sup>Municipal code reference

Property maintenance regulations: title 13.

<sup>2</sup>Charges for solid waste collection and disposal services have been set by ordinance and are of record in the recorder's office.

**17-102. Definitions.** The following words and terms shall have the meanings indicated when used in this chapter:

(1) "Ashes." The term "ashes" shall include the waste products from coal, wood, and other fuels used for cooking and heating from all public and private residences and establishments.

(2) "Bin." The term "bin" shall mean steel waste receptacles of not less than two (2) cubic yards and not more than eight (8) cubic yards designed for the storage of garbage. The containers shall be supplied by the collector, or if allowed, must meet the collector's standards for service.

(3) "Bulky waste." The term "bulky waste" includes discarded mattresses, box springs, stoves, refrigerators, water tanks, washing machines, furniture, and other waste materials not specifically designed for containers.

(4) "Building materials." Defined as materials of any type, kind or description, such as those customarily used in the construction, remodeling, or demolition of any dwelling or part thereof, or any outbuilding, such as garages or tool sheds. The terms "refuse," "garbage," and "rubbish" as provided in this chapter shall not include building materials.

(5) "Collector." The term "collector" shall mean any person, firm, corporation, or political subdivision which collects, transports, or disposes of any refuse within the corporate limits of the town.

(6) "Container." The term "container" shall mean the ninety-six (96) gallon container designed for the storage of garbage and supplied by the collector, or if allowed, must meet the collector's standard for service.

(7) "Enforcement officer." The town official or authorized representative charges with the responsibilities of enforcing the ordinance in title 17, including the building inspector, health officer, code enforcement officer, or other city official appointed or designated to enforce the provisions of this chapter.

(8) "Garbage." The term "garbage" shall 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.

(9) "Refuse." The term "refuse" as hereinafter referred to in this chapter shall include garbage, rubbish, ashes, and all other putrescible, combustible and noncombustible materials originating from the preparation, cooking, and consumption of food, market refuse, wastes from the handling and sale of produce, and other similar unwanted materials, but shall not include sewage, body wastes, non-putrescible hazardous wastes, or recognizable industrial by-products, from all residences and establishments, public and private. Refuse shall mean and include garbage, and rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

(10) "Rubbish." The term "rubbish" shall include all non-putrescible waste materials except ashes from all public and private residences and establishments. (as replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

**17-103. Premises to be kept clean.** All persons, firms, and corporations within the corporate limits of the Town of Oakland are hereby required to keep their premises in a clean and sanitary condition, free from accumulations of refuse, building materials, or bulky waste. Such persons, firms, and corporations are hereby required to store such refuse in sanitary containers or bins of the type described in this chapter between intervals of collection or to dispose of such material in a manner prescribed by enforcement officer so as not to cause a nuisance or become injurious to the public health and welfare. (as replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

**17-104. Storage.** Each owner, occupant, tenant, subtenant, lessee or other person using or occupying any building, house, structure, or grounds within the corporate limits of the town, or other responsible person using or occupying any building or other premises within this town, where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers or bins as required by the town or any approved solid waste contract with an outside collector. The refuse containers and bins shall be strong, durable, and rodent and insect proof. Such containers or bins shall also correspond with those requirements authorized by contracted collector, if applicable. No refuse shall be placed in a refuse container or bin until such refuse has been drained of all free liquids. Refuse must be in plastic bags designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top with total weight of bag and its contents not to exceed thirty-five (35) pounds. The lid or cover shall be kept in place at all times except when refuse is being deposited therein or removed therefrom. Containers shall be maintained in a clean and sanitary manner and shall be cleaned by washing or other methods as necessary to prevent the breeding of insects and the occurrence of offensive odors. (as replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

**17-105. Tree and shrub trimmings.** All tree trimmings, dead trees, or branches thereof, grass cuttings, garden trimmings, weeds and roots from which all dirt has been removed shall be a maximum of five feet (5') in length and no more than five inches (5") in diameter to be collected under the town's services or contracted services. (as replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

**17-106. Location of containers and bags for collection.** Collections from residential units shall be picked up at the curb. Curbside refers to that

portion of right-of-way adjacent to paved or traveled town roadways, including alleys. Containers shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, containers and bags shall be placed as close as practicable to an access point for the collection vehicle. Where alleys are used by the town refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Containers shall be placed where collectors may pick up and empty same without attack from animals. Refuse shall not be stored in close proximity to other personal effects which are not desired to be collected, but shall be reasonably separated in order that the collectors can clearly distinguish between what is and is not to be collected. (as replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

**17-107. Disturbing containers.** No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. No person shall deposit refuse in a privately or publicly owned container or bin without the expressed written permission of the owner of said container or bin. No person shall remove or attempt to remove materials from any refuse container or bin belonging to another person or business. (as replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

**17-108. Collection.** All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of as directed by the enforcement officer under policies or contracts duly adopted by the board of mayor and aldermen including costs of such services. Collections shall be made regularly in accordance with an announced schedule. Collection fees are established by the board of mayor and aldermen by duly adopted ordinance and charged to all residential units. Collections fees for commercial units are also established, but commercial units may contract independently so long as all requirements of this chapter are met. Building materials or any refuse not meeting town's collector contract requirements are not services provided by the town. The town's contracted collector may provide private service pick-up for these items separately from the town's services and costs. Any additional billing for these services must be handled through the collector and the customer independently. (as replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

**17-109. Confiscation of unsatisfactory storage containers.** The official refuse collecting department or subcontractor of the town is authorized to confiscate or to remove unsatisfactory storage containers from the premises of residences and establishments, public and private, when the enforcement officer or contracted collector, if applicable, determines that such containers are

not suitable for the healthful and sanitary storage of refuse substances. Such unsatisfactory containers shall be removed and disposed of at a place and in a manner designated by the official refuse collecting department or subcontractor. (as added by Ord. #09.02.03, March 2009, and replaced by Ord. #11.11.02, Dec. 2011, and Ord. #14-10, Sept. 2014)

**17-110. Storage locations of containers or bins.** (1) The receptacle can either be designed or hidden into the scheme of structure or of the building itself in the side or rear yard; inside a garage or carport; or in an enclosed and screened fenced area in the side or rear yard. No trash receptacle should be stored any further out than the structure it is servicing.

(2) (a) On all commercial building sites with enclosed area for trash receptacles, the dumpsters or other trash receptacles shall be located behind the building and hidden from street view when it is possible to do so unless there is a conflict with the authorized collector. On all commercial building sites with no enclosed area for trash receptacles, the dumpsters or other trash receptacles shall be located behind the building and hidden from street view when it is possible to do so. The location of dumpsters or other trash receptacles, either enclosed or not enclosed, must allow for a twenty foot (20') wide fire lane wherever possible. Possible alternatives may be considered during site plan review by the approving and reviewing authority.

(b) Exception. In order to prevent littering, trash receptacles, not to exceed thirty-five (35) gallons, are allowed on all commercial properties for customer convenience to dispose of trash. These receptacles are to be maintained at the sole expense of the business providing the receptacle.

(3) All temporary dumpsters located at building construction sites and all dumpsters placed for the purpose of collecting recyclable material are exempt from all provisions of this section. (as added Ord. #11.11.02, Dec. 2011, and replaced by Ord. #14-10, Sept. 2014)

**17-111. Curbside garbage containers regulated.** (1) The ninety-six (96) gallon wheeled containers or any other such authorized containers are to be placed at the curb by 6:00 A.M. on the homeowner's scheduled collection day. The container is not to be placed on the road in such manner to impede the flow of traffic or safety of the public in general. If there is no curb at the residence than the container is to be placed at the end of the driveway or along the roadside.

(2) The containers are to be returned to a location in accordance with this chapter by 7:00 A.M. of the morning following the actual day of pickup.

(3) Exception; assisted services. In the event that the contract with the trash collection firm allows additional services, public works may authorize the firm to provide individuals with special needs or disabilities to receive

service without placing their receptacles by the roadway in accordance with collector contract, if applicable. (as added by Ord. #11.11.02, Dec. 2011, and replaced by Ord. #14-10, Sept. 2014)

**17-112. Notice to remove.** Upon the failure of any owner of property within the town to remove rubbish or refuse from his property and dispose of it in accordance with the law, it shall be the duty of the enforcement officer to serve notice on the owner of such property to clean the property within five (5) days of the service of such notice. Such notice may be served personally on the owner of the property, may be mailed to the last known address of such owner by registered or certified mail, posted on the property on which such refuse exists, or published in local newspaper for two consecutive weeks. Service of notice by any of the above methods shall be due notice to such owner. (as added by Ord. #11.11.02, Dec. 2011, and replaced by Ord. #14-10, Sept. 2014)

**17-113. No refuse to be collected unless properly stored.** In no case will it be the responsibility of the town or contracted collector of the town to shovel or pick up from the ground any accumulation of refuse, including leaves, lawn clippings, brush, or packing material that do not meet the provisions of this chapter or town's collector contract, if applicable. (as added by #14-10, Sept. 2014)

**17-114. Collection of garbage and refuse permits.** No person, firm, or corporation other than the town or contracted collector shall engage in the business of collecting refuse or removing the contents of any refuse container, or any purpose whatsoever, who does not possess a permit to do so from the code enforcement department. Such permits may be issued only after the applicant's capability of complying with the requirements of this chapter has been fully determined. Such permits may be suspended or revoked upon the violation of any of the terms of this chapter. (as added by #14-10, Sept. 2014)

**17-115. Collection vehicles.** The collection of refuse shall be by means of vehicles as established in collector contract, if applicable. (as added by #14-10, Sept. 2014)

**17-116. Disposal of refuse.** The disposal of refuse in any quantity by any person in any place, public or private, other than as directed by the terms of this chapter, is expressly prohibited. Dumping in streams, sewers, drains, roadways, rights-of-way, etc. is strictly prohibited. (as added by #14-10, Sept. 2014)

**17-117. Violations and penalty.** Any person who shall violate any of the provisions of this chapter or who shall fail or refuse to obey any notice issued by an enforcement officer, with reference to the storage, accumulation, or

disposal of refuse, shall be guilty of a misdemeanor and shall be subject to a fine under the general penalty clause for this code. Failure to carry out the provisions of this chapter shall be considered a misdemeanor subject to a fine not less than five dollars (\$5.00) or more than fifty dollars (\$50.00) with each day being a separate offense unless otherwise specified. (as added by #14-10, Sept. 2014)

**TITLE 18**

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

**CHAPTER**

1. WATER AND SEWERS.
2. SEWER USE ORDINANCE.
3. SEWAGE AND HUMAN EXCRETA DISPOSAL.
4. CROSS CONNECTIONS, AUXILIARY INTAKES, ETC.

**CHAPTER 1**

**WATER AND SEWERS**

**SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Connection charges.
- 18-107. Water and sewer main extensions.
- 18-108. Variances from and effect of preceding section as to extensions.
- 18-109. Meters.
- 18-110. Meter tests.
- 18-111. Billing procedures and rates.
- 18-112. Multiple services through a single meter.
- 18-113. Deleted.
- 18-114. Discontinuance or refusal of service.
- 18-115. Re-connection charge.
- 18-116. Termination of service by customer.
- 18-117. Access to customers' premises.
- 18-118. Inspections.
- 18-119. Customer's responsibility for system's property.
- 18-120. Customer's responsibility for violations.
- 18-121. Supply and resale of water.
- 18-122. Unauthorized use of or interference with water supply.
- 18-123. Limited use of unmetered private fire line.
- 18-124. Damages to property due to water pressure.

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<sup>1</sup>Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-125. Liability for cutoff failures.
- 18-126. Restricted use of water.
- 18-127. Interruption of service.

**18-101. Application and scope.** The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the municipality and shall apply whether the service is based upon contract, agreement, signed application, or otherwise.

**18-102. Definitions.** (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the municipality under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the municipality to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the municipality's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premise" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling.

**18-103. Obtaining service.** A formal application for either original or additional service must be made and be approved by the municipality before connection or meter installation orders will be issued and work performed.

**18-104. Application and contract for service.** Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not occupying the premises or otherwise, he shall reimburse the municipality for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customer's application for service, regardless of whether or not accompanied by a deposit, shall not obligate the municipality to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liability of the municipality to the applicant shall be limited to the return of any deposit made by such applicant.

**18-105. Service charges for temporary service.** Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service.

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

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

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

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

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

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

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

Upon completion of such extensions and their approval by the municipality, such water and/or sewer mains shall become the property of the municipality. The persons paying the cost of constructing such mains shall

execute any written instruments requested by the municipality to provide evidence of the municipality's title to such mains. In consideration of such mains being transferred to it, the municipality shall incorporate said mains as an integral part of the municipal water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of said mains.

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

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the municipality to make such extensions or to furnish service to any person or persons.

**18-109. Meters.** All meters shall be installed, tested, repaired, and removed only by the municipality.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the municipality. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter.

**18-110. Meter tests.** The municipality will, at its own expense, make routine tests of meters when it considers such tests desirable.

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

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

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

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

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the municipality.

**18-111. Billing procedures and rates.** (1) That water, sewer, and solid waste bills be rendered monthly on or by the first (1st) of the month, and a standard net payment period for all customers is revised from the tenth (10th) day of the month to the fifteenth (15th) day of the month. The customer's bill must be paid by close of business on the fifteenth (15th) day of the month in order to receive the net price on the monthly bill. Payments received after close of business on the fifteenth (15th) of each month will incur a ten percent (10%) late penalty charge.

(2) Customers subject to the late penalty charge shall be issued a written final notice including the following information: Delinquent amount, including late payment penalty, right to a hearing, date services are subject to termination, and the amount of the automatic service fee that will accrue on unpaid accounts at close of business on the twenty-fifth of the month.

(3) If a customer fails to make payment by close of business on the twenty-fifth (25th) of the month, the termination of service process begins and an automatic service fee of thirty dollars (\$30.00) is incurred on all balances over ten dollars (\$10.00). This service fee includes processing of the termination of services; up to and including disconnection and reconnection of the services. Any balance at or under the established termination of service minimum will not incur the service fee, nor be subject to termination of services.

(4) Payments must actually be received at city hall by close of business on the established dates. Payments received after close of business on the fifteenth (15th) of the month will automatically accrue a ten percent (10%) penalty. Payments not received in full by close of business on the twenty-fifth (25th) of the month, including the ten percent (10%) late penalty, will automatically accrue the thirty dollar (\$30.00) service fee and services will be terminated immediately.

(5) Customers must allow forty-eight (48) hour processing of online payments for funds to be considered received by the town.

(6) Security box payments are removed and registered at the beginning and close of business each day.

(7) If the due date falls on a Saturday, Sunday, or a town holiday, net payment will be accepted in the security box as timely paid up to the beginning of the next business day. Payments placed in the security box after the

beginning of business the next business day will not be considered timely payments.

(8) The town recorder/chief financial officer may approve a three (3) month extension to pay monthly bills upon written request and attendance of the specified hearing prior to the twenty fifth (25th) of the month. To receive an extension, the customer must have justifiable cause and no prior service fees for nonpayment in the previous twelve (12) months. The customer must pay fifty percent (50%) of the current bill and the remaining fifty percent (50%) will be divided into two (2) installments over the course of the two (2) months immediately subsequent to the month for which the customer obtained an extension. During the extension period, all current billing must be paid in addition to the amounts approved in the extension agreement. Late penalties will accrue on all delinquent amounts, but the service fee will not apply if current billing and extension agreement are maintained. All extensions approved under this item must have subsequent approval of the mayor. Extension requests for four (4) months or longer must be approved by the board of mayor and aldermen.

(9) Service charge for temporary services. Customers requiring temporary services shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. The service charge for this temporary service is established at fifty dollars (\$50.00).

(10) Minimum irrigation meter billing is hereby established at ten dollars (\$10.00).

(11) Meter rereads at customer request will be at no charge if initial reading is found to be inaccurate, and the cost shall be borne by the municipality for the reread. If the initial reading is found to be accurate, then the customer shall pay a reread charge of fifteen dollars (\$15.00).

(12) Unpaid bill at prior address. Any customer's unpaid bill accrued at a prior address shall be added to the customer's bill for his current address.

(13) Termination of services will not be made on any preceding day when city hall or the water and sewer department is scheduled to be closed.

(14) Fee to restore service after business hours fifty dollars (\$50.00).

(15) Damaged or destroyed equipment fees. The following replacement fees shall be charged to customers who destroy, disable or otherwise damage town equipment. Water meter box lock ten dollars (\$10.00); concrete meter box lid twenty dollars (\$20.00). (as replaced by Ord. #15-1, Feb. 2015)

**18-112. Multiple services through a single meter.** No customer shall supply water or sewer service to more than one dwelling or premise from a single service line and meter without first obtaining the written permission of the municipality.

Where the municipality allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all

the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the municipality's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied.

**18-113. Deleted.** (as deleted by Ord. #15-1, Feb. 2015)

**18-114. Discontinuance or refusal of service.** The municipality shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

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

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

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

**18-115. Re-connection charge.** Whenever service has been discontinued as provided for above, a re-connection charge shall be collected. The charge shall be an amount as set by the board from time to time by ordinance or resolution.

**18-116. Termination of service by customer.** Customers who have fulfilled their contract terms and wish to discontinue service must give at least

three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

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

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the municipality shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the municipality should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of such ten (10) day period.

(2) During such ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the municipality to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service.

**18-117. Access to customers' premises.** The municipality's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the municipality, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations.

**18-118. Inspections.** The municipality shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The municipality reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by municipal ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the municipality.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the municipality liable or responsible for any loss or damage which might have been avoided had such inspection or rejection been made.

**18-119. Customer's responsibility for system's property.** Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the municipality shall be and remain the property

of the municipality. Each customer shall provide space for and exercise proper care to protect the property of the municipality on his premises. In the event of loss or damage to such property arising from the neglect of a customer to care for it properly, the cost of necessary repairs or replacements shall be paid by the customer.

**18-120. Customer's responsibility for violations.** Where the municipality furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him.

**18-121. Supply and resale of water.** All water shall be supplied within the municipality exclusively by the municipality, and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof except with written permission from the municipality.

**18-122. Unauthorized use of or interference with water supply.** No person shall turn on or turn off any of the municipality's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the municipality.

**18-123. Limited use of unmetered private fire line.** Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the municipality.

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

**18-124. Damages to property due to water pressure.** The municipality shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the municipality's water mains.

**18-125. Liability for cutoff failure.** The municipality's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off a water service, the municipality has failed to cut off such service.

(2) The municipality has attempted to cut off a service but such service has not been completely cut off.

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

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

**18-126. Restricted use of water.** In times of emergencies or in times of water shortage, the municipality reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use.

**18-127. Interruption of service.** The municipality will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The municipality shall not be liable for any damages for any interruption of service whatsoever.

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

## CHAPTER 2

### SEWER USE ORDINANCE

#### SECTION

- 18-201. Purpose and policy.
- 18-202. Definitions.
- 18-203. Requirements for proper wastewater disposal.
- 18-204. Physical connection to the public sewer.
- 18-205. Inspection of connections.
- 18-206. Maintenance of building sewers.
- 18-207. Availability of public sewer.
- 18-208. Requirements for private wastewater disposal.
- 18-209. Regulation of holding tank waste disposal.
- 18-210. Applications for domestic wastewater discharge and industrial wastewater discharge permits.
- 18-211. Discharge regulations.
- 18-212. Industrial user monitoring, inspection reports, records access, and safety.
- 18-213. Enforcement and abatement.
- 18-214. Penalty: costs.
- 18-215. Fees and billing.
- 18-216. Validity.

**18-201. Purpose and policy.** This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Oakland, Tennessee, wastewater treatment system. The objectives of this chapter are:

- (1) To protect the public health;
- (2) To provide problem free wastewater collection and treatment service;
- (3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, will cause the city's discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements will cause physical damage to the wastewater treatment system facilities;
- (4) To provide for full and equitable distribution of the cost of the wastewater treatment system;
- (5) To enable the City of Oakland to comply with the provisions of the Federal Clean Water Act, the General Pretreatment Regulations (40 CFR Part 403), and other applicable federal and state laws and regulations;
- (6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Oakland must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system. The chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the City of Oakland Tennessee, and to persons outside the city who are, by contract or agreement with the city users of the municipal wastewater treatment system. Except as otherwise provided herein, the water and sewer superintendent of the City of Oakland shall administer, implement, and enforce the provisions of this chapter. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-202. Definitions.** Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act" or "the Act" - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*

(2) "Approval authority" - The director in an NPDES state with an approved state pretreatment program and the administrator of the EPA in a non-NPDES state or NPDES state without an approved state pretreatment program.

(3) "Authorized representative of industrial user" - An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical Oxygen Demand (BOD)" - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer" - A sewer conveying wastewater from the premises of a user to the POTW.

(6) "Categorical standards" - National categorical pretreatment standards or pretreatment standard.

(7) "City" - The City of Oakland or the Board of Mayor and Aldermen, City of Oakland Tennessee.

(8) "Compatible pollutant" - shall mean BOD, suspended solids, pH, and fecal coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in this city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(9) "Cooling water" - The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(10) "Control authority" - The term "control authority" shall refer to the "approval authority," defined hereinabove; or the superintendent if the city has an approved pretreatment program under the provisions of 40 CFR, 403.11.

(11) "Customer" - means any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to the city for such service.

(12) "Direct discharge" - The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(13) "Domestic wastewater" - Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent containing sanitary facilities for the disposal of wastewater and used for residential purposes only.

(14) "Environmental Protection Agency, or EPA" - The U.S. Environmental Protection Agency, or where appropriate the term may also be used as designation for the administrator or other duly authorized official of the said agency.

(15) "Garbage" - shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(16) "Grab sample" - A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(17) "Holding tank waste" - Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(18) "Incompatible pollutant" - shall mean any pollutant which is not a "compatible pollutant" as defined in this section.

(19) "Indirect discharge" - The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

(20) "Industrial user" - A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to Section 402, of the Act (33 U.S.C. 1342).

(21) "Interference" - The inhibition or disruption of the municipal wastewater treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(22) "National categorical pretreatment standard or pretreatment standard" - Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

(23) "NPDES (Natural Pollutant Discharge Elimination System)" - shall mean the program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to Section 402 of the Federal Water Pollution Control Act as amended.

(24) "New source" - Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the federal register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(25) "Person" - Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

(26) "pH" - The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(27) "Pollution" - The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(28) "Pollutant" - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical substances, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(29) "Pretreatment or treatment" - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The

reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes other means, except as prohibited by 40 CFR, Section 40.36(d).

(30) "Pretreatment requirements" - Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(31) "Publicly Owned Treatment Works (POTW)" - A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292), which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the (city) who are, by contract or agreement with the (city), users of the (city's) POTW.

(32) "POTW Treatment Plant" - That portion of the POTW designed to provide treatment to wastewater.

(33) "Shall" is mandatory; "May" is permissive.

(34) "Slug" - shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentrations of flows during normal operation or any discharge of whatever duration that causes the sewer to overflow or back up in an objectionable way or any discharge of whatever duration that interferes with the proper operation of the wastewater treatment facilities or pumping stations.

(35) "State" - State of Tennessee.

(36) "Standard Industrial Classification (SIC)" - A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(37) "Storm water" - Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(38) "Storm sewer" or "storm drain" - shall mean a pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes; it may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(39) "Suspended solids" - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(40) "Superintendent" - The person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(41) "Toxic pollutant" - Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA (307(a)) or other Acts.

(42) "Twenty-four (24) hour flow proportional composite sample" - A sample consisting of several sample portions collected during a 24-hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(43) "User" - Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(44) "Wastewater" - The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(45) "Wastewater treatment systems" - Defined the same as POTW.

(46) "Waters of the State" - All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-203. Requirements for proper wastewater disposal.** (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the City of Oakland, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the City of any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in paragraph (5) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer in the service area, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within five hundred (500) feet of the building drain as defined herein.

(5) The owner of a manufacturing facility may discharge wastewater to the waters of the state provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(6) Where a public sanitary sewer is not available under the provisions of Paragraph (4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of §§ 18-207 and 18-208 of this chapter. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-204. Physical connection to the public sewer.** (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the superintendent as required by §§ 18-210 of this chapter.

(2) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(3) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

(4) Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the superintendent to meet all requirements of this chapter. All others must be sealed to the specifications of the superintendent.

(5) Building sewers shall conform to the following requirements:

(a) The minimum size of a building sewer shall be four (4) inches.

(b) The minimum depth of a building sewer shall be eighteen (18) inches.

(c) Four (4) inch building sewers shall be laid on a grade greater than 1/8-inch per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(d) Slope and alignment of all building sewers shall be neat and regular.

(e) Building sewers shall be constructed only of:

(i) Concrete or clay sewer pipe using rubber or neoprene compression joints of approved type;

(ii) Cast iron soil pipe with leaded or compression joints;

(iii) Polyvinyl chloride pipe with solvent welded or with rubber compression joints;

(iv) ABS composite sewer pipe with solvent welded or rubber compression joints of approved type; or

(v) Such other materials of equal or superior quality as may be approved by the superintendent. Under no circumstances will cement mortar joints be acceptable.

(f) A cleanout shall be located five (5) feet outside of the building, one as it taps onto the utility lateral and one at each change of direction of the building sewer which is greater than 45 degrees. Additional cleanouts shall be placed not more than seventy-five (75) feet apart in horizontal building sewers of four (4) inch nominal diameter and not more than one hundred (100) feet apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and 1/8 bend shall be used for the cleanout base. Cleanouts shall not be smaller than four (4) inches on a four (4) inch pipe.

(g) Connections of building sewers to the public sewer system shall be made with the appropriate existing wye or tee branch using compression type couplings or collar type rubber joints with corrosion resisting or stainless steel bands. Where existing wye or tee branches are not available, connections of building services shall be made by either removing a length of pipe and replacing it with a wye or tee fitting or cutting a clean opening in the existing public sewer and installing a tee-saddle or tee-insert of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(h) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of 1/8-inch per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(i) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city or to the procedures set forth in appropriate specifications of the ASTM and Water Pollution Control Federal Manual of Practice No. 9. Any deviation from the

prescribed procedures and materials must be approved by the superintendent before installation.

(j) An installed building sewer shall be gastight and watertight.

(6) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(7) No person shall make connection of roof downspouts, exterior foundation drains, areawy drains, basement drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn in connected directly or indirectly to a public sanitary sewer. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-205. Inspection of connections.** (1) The sewer connection and all building sewers from the building to the public sewer main line shall be inspected before the underground portion is covered by the superintendent or his authorized representative.

(2) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-206. Maintenance of building sewers.** Each individual property owner or user of the POTW shall be entirely responsible for the maintenance of the building sewer located on private property. This maintenance will include repair or replacement of the service line as deemed necessary by the superintendent to meet specifications of the city. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-207. Availability of public sewer.** (1) Where a public sanitary sewer is not available under the provisions of § 18-203(4), the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(2) Any residence, office, recreational facility, or other establishment used for human occupancy where the building drain is below the elevation to obtain a grade equivalent to 1/8-inch per foot in the building sewer but is otherwise accessible to a public sewer as provided in § 18-203, the owner shall provide a private sewage pumping station as provided in § 18-204(5)(h).

(3) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice to do so. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-208. Requirements for private wastewater disposal.** (1) A private domestic wastewater disposal system may not be constructed within the

service area unless and until a certificate is obtained from the superintendent stating that a public sewer is not accessible to the property and no such sewer is proposed for construction in the immediate future. No certificate shall be issued for any private domestic wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than that specified by the Fayette County Health Department.

(2) Before commencement of construction of a private sewage disposal system, the owner shall first obtain written permission from the Fayette County Health Department. The owner shall supply any plans, specifications, and other information as are deemed necessary by the Fayette County Health Department.

(3) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the Fayette County Health Department. They shall be allowed to inspect the work at any stage of construction and, in any event, the owner shall notify the Fayette County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the and Fayette County Health Department.

(4) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of Tennessee and the Fayette County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(5) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(6) No statement contained in this chapter shall be construed to interfere with any additional requirements that may be imposed by the Fayette County Health Department. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-209. Regulation of holding tank waste disposal.** (1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the superintendent to perform such acts or services. Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner.

(2) Fees. For each permit issued under the provisions of this chapter, an annual service charge therefore shall be paid to the city to be set as specified in § 18-215. Any such permit granted shall be for one full fiscal year or fraction

of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year unless sooner revoked, and shall be nontransferable. The number of the permit granted hereunder shall be plainly painted on each side of the motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation thereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Oakland. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-210. Applications for domestic wastewater discharge and industrial wastewater discharge permits.** (1) Applications for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for written authorization to discharge to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the municipal sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-204 of this chapter and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for service shall not obligate the city to render the service. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service, except that conditional waivers for additional services may be granted by the superintendent for interim periods if compliance may be assured within a reasonable period of time.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing industrial

users connected to or contributing to the POTW within 180 days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the superintendent an application in the form prescribed by the superintendent, and accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within 60 days after the effective date of this chapter, and proposed new users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to the following information: name, address and SIC number of applicant; wastewater volume; wastewater constituents and characteristics; discharge variations - daily, monthly, seasonal and 30 minute peaks; a description of all toxic materials handled on the premises; site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities and any other information deemed necessary by the superintendent.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall as part of the application for wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the superintendent for approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this paragraph, "pretreatment standard," shall include either a

national pretreatment standard or a pretreatment standard imposed by § 18-211 of this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The superintendent will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the superintendent that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the superintendent, the superintendent shall submit the application to the mayor with a recommendation that it be denied and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees establishing by the city. Permits may contain the following:

(i) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(ii) Limits on the average and maximum wastewater constituents and characteristics;

(iii) Limits on average and maximum rate and time of discharge or requirements and equalization;

(iv) Requirements for installation, maintenance, inspections and sampling facilities;

(v) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;

(vi) Compliance schedules;

(vii) Requirements for submission of technical reports of discharge reports;

(viii) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city and affording city access thereto;

(ix) Requirements for notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(x) Requirements for notification of slug discharged;

(xi) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit modifications. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required by § 18-210(2)(b)(ii) and (2)(b)(iii). The terms and conditions of the permit may be subject to modification by the superintendent during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permits duration. 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 user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit.

(f) Permit transfer. 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 premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaire permit application, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency 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 of the user.

When requested by the person furnishing the report, 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 to governmental agencies for use; related to this chapter or the city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the superintendent as confidential shall not be transmitted to any governmental agency or to the general public by the superintendent until and unless prior and adequate notification is given to the user. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-211. Discharge regulations.** (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other

substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, paunch manure, bones, hair, hides, or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(c) Any wastewater having a pH less than 5.0 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(d) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

(e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.

(f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(g) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(h) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40° C (104° F).

(j) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW.

(k) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "sludge" as defined herein.

(l) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(m) Any wastewater which causes a hazard to human life or creates a public nuisance.

(n) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between thirty-two (32) or one hundred fifth (150) degrees F (0 and 65° C).

(o) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Public Health. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Public Health, to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the following set of standards (Table A - User Discharge Restrictions) unless an exception is permitted as provided in this chapter. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

**Table A - User Discharge Restrictions**

Pollutant	Daily Average* Maximum Concentration (mg/l)	Instantaneous Maximum Concentration (mg/l)
Antimony	5.0	8.0
Arsenic	1.0	1.5
Cadmium	1.0	1.5
Chromium (total)	4.0	7.0
Copper	3.0	5.0
Cyanide	1.0	2.0
Lead	1.0	1.5
Mercury	0.1	0.2
Nickel	3.0	4.5
Pesticides & Herbicides	0.5	1.0
Phenols	10.0	15.0
Selenium	1.0	1.5
Silver	1.0	1.5
Surfactants, as MBAS	25.0	50.0
Zinc	3.0	5.0

\*Based on 24-hour flow proportional composite samples.

(3) Protection of treatment plant influent. The superintendent shall monitor the treatment works influent for each parameter in the following table. (Table B - Plant Protection Criteria). Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set for in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by this table, the superintendent shall initiated technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The superintendent shall also recommend changes to any of these criteria in the event that: the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

**Table B-Plant Protection Criteria**

Paramter	Maximum Concentration (mg/l) (24 Hour Flow) Proportional Composite Sample	Maximum Instantaneous Concentration (mg/l) Grab Sample
Aluminum		
dissolved (Al)	3.00	6.0
Antimony (Sb)	0.50	1.0
Arsenic (As)	0.06	0.12
Barium (Ba)	2.50	5.0
Boron (B)	0.4	0.8
Cadmium (Cd)	0.004	0.008
Chromium Hex	0.06	0.12
Cobalt (Co)	0.03	0.06
Copper (Cu)	0.16	0.32
Cyanide (CN)	0.03	0.06
Fluoride (F)	0.6	1.2
Iron (Fe)	3.0	6.0
Lead (Pb)	0.10	0.2
Manganese (Mn)	0.1	0.2
Mercury (Hg)	0.025	0.05
Nickel (Ni)	0.15	0.30
Pesticides & Herbicides	.001	.002
Phenols	1.00	2.0
Selenium (Se)	0.01	0.02
Silver (Ag)	0.05	0.1
Sulfide	25.0	40.0
Zinc (Zn)	0.3	0.6
Total Kjeldahl		
Nitrogen (TKN)	45.00	90.00
Oil & Grease	50.00	100.00
MBAS	5.00	10.0
BOD	*	
COD	*	
Suspended Solids	*	

\*Not to exceed the design capacity of treatment works.

BDL = Below Detectable Limits

(4) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular

industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(5) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the superintendent from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Public Health and/or the United States Environmental Protection Agency.

(6) Special agreements. Nothing in this section shall be construed so as to prevent any special agreement or arrangement between the city and any user of the wastewater treatment system whereby wastewater of unusual strength or character is accepted into the system and specially treated subject to any payments or user charges as may be applicable. The making of such special agreements or arrangements between the city and the user shall be strictly limited to the capability of the POTW to handle such wastes without interfering with unit operations or sludge use and handling or allowing the pass through of pollutants which would result in a violation of the NPDES permit. No special agreement or arrangement may be made without documentation by the industry of the use of good management practice in the reduction of wastewater volume and strength.

(7) Exceptions to discharge criteria. (a) Application for exception. Non-residential users of the POTW may apply for a temporary exception to the prohibited and restricted wastewater discharge criteria listed in § 18-211(1) and (2) of this code. Exceptions can be granted according to the following guidelines:

The superintendent shall allow applications for temporary exceptions at any time. However, the superintendent shall not accept an application if the applicant has submitted the same or substantially similar application within the preceding year and the same has been denied by the city.

All applications for an exception shall be in writing, and shall contain sufficient information for evaluation of each of the factors to be considered by the city in its review of the application.

(b) Conditions. All exceptions granted under this paragraph shall be temporary and subject to revocation at any time by the superintendent upon reasonable notice.

The user requesting the exception must demonstrate to the superintendent that he is making a concentrated and serious effort to maintain high standards of operation control and housekeeping levels, etc., so that discharges to the POTW are being minimized. If negligence is found, permits will be subject to termination. The user requesting the exception must demonstrate that compliance with stated concentration and quantity standards is technically or economically infeasible and the discharge, if excepted, will not:

- (i) Interfere with the normal collection and operation of the wastewater treatment system.
- (ii) Limit the sludge management alternatives available and increase the cost of providing adequate sludge management.
- (iii) Pass through the POTW in quantities and/or concentrations that would cause the POTW to violate its NPDES permit.

The user must show that the exception, if granted, will not cause the discharger to violate its inforce federal pretreatment standards unless the exception is granted under the provisions of the applicable pretreatment regulations.

A surcharge shall be applied to any exception granted under this subsection. These surcharges shall be applied for that concentration of the pollutant for which the variance has been granted in excess of the concentration stipulated in this chapter based on the average daily flow of the user.

(c) Review of application by the superintendent. All applications for an exception shall be reviewed by

- (i) The engineering aspects of various types of pretreatment or other control techniques available to the user to improve the quality or quantity of wastewater discharge.

(8) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from inplant transfer or processing and materials handling areas, and from diked areas or holding ponds of any waste regulated by this chapter. The wastewater discharge permit of any user who has a history of significant leaks, spills, or other accidental discharge of waste regulated by this chapter shall be subject on a case-by-case basis to a special permit condition or requirement for the construction of facilities establishment of procedures which will prevent or minimize the potential for such accidental discharge. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing

the facilities and operating procedures shall be submitted to the superintendent before the facility is constructed.

The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the superintendent (or his designated official) by telephone to enable countermeasures to be taken by the superintendent to minimize damage to the POTW, the health and welfare of the public, and the environment. This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification will not relieve the user of liability for any expense loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-212. Industrial user monitoring, inspection reports, records access, and safety.** (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users having wastes which receive pretreatment, are otherwise altered or regulated before discharge, or are unusually strong and thereby subject to a surcharge. Monitoring facility shall be a manhole or other suitable facility approved by the superintendent.

When, in the judgment of the superintendent, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user the superintendent may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the superintendent, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The superintendent may, however,

when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the superintendent's requirements and all applicable local agency construction standards and specifications. When, in the judgment of the superintendent, an existing notified in writing. Construction must be completed within 180 days following written notification unless an extension is granted by the superintendent.

(2) Inspection and sampling. The city shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility. The superintendent or his representatives shall have no authority to inquire into any manufacturing process beyond that point having a direct bearing on the level and sources of discharge to the sewers, waterways, or facilities for waste treatment.

(3) Compliance date report. Within 180 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment

standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of new source, after commencement of the discharge into the POTW, shall submit to the superintendent during the months of June and December, unless required more frequently in the pretreatment standards or by the superintendent a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the superintendent may agree to alter the months during which the above reports are to be submitted.

(b) The superintendent may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, or pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the superintendent. Sampling shall be performed in accordance with the techniques approved by the superintendent.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods used; and
- (e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all

records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the superintendent, Director of the Division of Water Quality Control Tennessee Department of Public Health, or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the superintendent, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the superintendent or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-213. Enforcement and abatement.** (1) Issuance of cease and desist orders. When the superintendent finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter, or the provisions of a wastewater discharge permit, the superintendent shall issue an order to cease and desist, and direct that these persons not complying with such prohibitions, limits requirements, or provisions to:

- (a) Comply forthwith;
- (b) Comply in accordance with a time schedule set forth by the superintendent;
- (c) Take appropriate remedial or preventive action in the event of a threatened violation; or
- (d) Surrender his applicable user's permit if ordered to do so after a show cause hearing.

Failure of the superintendent to issue a cease and desist order to a violating user shall not in any way relieve the user from any consequences of a wrongful or illegal discharge.

(2) Submission of time. When the superintendent finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations of pretreatment standards, or the provisions of a wastewater discharge permit, the superintendent shall require the user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. Such schedule shall be submitted to the superintendent within 30 days of the issuance of the cease and desist order.

(3) Show cause hearing. (a) The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the board of mayor and aldermen why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the city council regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the city council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing.

(b) The board of mayor and aldermen may itself conduct the hearing and take evidence, or may designate any of its members or any officer or employee of the water and sewer department to:

(i) Issue in the name of the board of mayor and aldermen notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(d) After the board of mayor and aldermen has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that these devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(4) Legal action. If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate legal and/or equitable relief in the Chancery Court of this county.

(5) Emergency termination of service. In the event of an actual or threatened discharge to the POTW of any pollutant which in the opinion of the superintendent presents or may present an imminent and substantial endangerment to the health or welfare of persons, or cause interference with POTW, the superintendent or in his absence the person then in charge of the

treatment works shall immediately notify the mayor of the nature of the emergency. The superintendent shall also attempt to notify the industrial user or other person causing the emergency and request their assistance in abating same. Following consultation with the aforementioned officials of the city or in their absence such elected officials of the city as may be available, the superintendent shall temporarily terminate the service of such user or users as are necessary to abate the condition when such action appears reasonably necessary. Such service shall be restored by the superintendent as soon as the emergency situation has been abated or corrected.

(6) Public nuisance. Discharges of wastewater in any manner in violation of this chapter or of any order issued by the superintendent as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the superintendent. Any person creating a public nuisance shall be subject to the provisions of the city codes or ordinances governing such nuisance.

(7) Correction of violation and collection of costs. In order to enforce the provisions of this chapter, the superintendent shall correct any violation hereof. The cost of such correction shall be added to any sewer service charge payable by the person violating the chapter or the owner or tenant of the property upon which the violation occurred, and the city shall have such remedies for the collection of such costs as it has for the collection of sewer service charges.

(8) Damage to facilities. When a discharge of wastes causes an obstruction, damage, or any other physical or operational impairment to facilities, the superintendent shall assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

(9) Civil liabilities. Any person or user who intentionally or negligently violates any provision of this chapter, requirements, or conditions set forth in permit duly issued, or who discharges wastewater which causes pollution or violates any cease and desist order, prohibition, effluent limitation, national standard or performance, pretreatment, or toxicity standard, shall be liable civilly.

The City of Oakland shall sue for such damage in any court of competent jurisdiction. In determining the damages, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, and the correcting action, if any. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-214. Penalty: costs.** (1) Civil penalties. Any user who is found to have violated an order of the board of mayor and aldermen or who willfully or negligently failed to comply with any provision of this chapter, and the order, rules, regulations and permits issued hereunder, shall be fined not less than

fifty and 00/100 dollars (\$50.00) for each offense. Each day of which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations, and permits issued hereunder.

(2) Falsifying information. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction be punished by a fine of not more than \$1,000 or by imprisonment for not more than six (6) months, or by both. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-215. Fees and billing.** (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system, including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees, may include, but not be limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge fees;
- (e) Industrial wastewater discharge permit fees;
- (f) Fees for industrial discharge monitoring; and
- (g) Other fees as the city may deem necessary to carry out the

requirements of this chapter.

(3) Fees for applications for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-210 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed. Fees shall cover the costs of inspecting new and/or existing plumbing within subject building establishments as well as inspection of building sewers, property sewers, and sewer service lines and connections to the public sewers. The inspection fee and tapping fee shall be set by the board of mayor and aldermen.

(5) Sewer user charges. (a) Classification of users. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the user's contribution of wastewater loads; each class user being identified as follows:

(i) Class I: Those users whose average biochemical oxygen demand is two hundred fifty milligrams per liter (250 mg/l) by weight or less, and whose suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.

(ii) Class II: Those users whose average biochemical oxygen demand exceeds two hundred fifty milligrams per liter concentration (250 mg/l) by weight and whose suspended solids exceeds two hundred fifty milligrams per liter concentration (250 mg/l).

(b) Determination of costs. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; and debt service costs.

(i) All users who fall under Class I shall pay a single unit charge expressed as dollars per 1,000 gallons of water purchased (\$/1,000 gallons) with the unit charge being determined in accordance with the following formula:

$$C_i = \frac{T.S.C.}{V_t}$$

Where;

$C_i$  = the Class I total unit cost in \$/1,000 gallons

T.S.C. = the total operation and maintenance, administration, and debt service determined by yearly budget projections.

$V_t$  = the total volume of wastewater contribution from all users per year as determined from projections from one city fiscal year to the next.

(ii) All users who fall within the Class II classification shall pay the same base unit charge per 1,000 gallons of water purchased as for the Class I users and in addition shall pay a surcharge rate on the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(iii) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the superintendent if a user purchases a significant volume of water for a consumptive use and does not discharge it to the public sewers (i.e. filling swimming pools, industrial heating, and humidifying equipment, etc.). The user shall be responsible for documenting the quantity of waste discharged to the public sewer.

(iv) When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the treatment works is in excess of those described in paragraph § 18-215(5)(a) above, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where;

$C_u$	=	Total user charge per unit of time.
$V_c$	=	Total cost for transportation and treatment of a unit of wastewater volume.
$V_u$	=	Volume contribution per unit of time.
$B_c$	=	Total cost for treatment of a unit of biochemical oxygen demand (BOD).
$B_u$	=	Total BOD contribution for a user per unit of time.
$S_c$	=	Total cost of treatment of a unit of suspended solids.
$S_u$	=	Total suspended solids contribution from a user per unit of time.

(6) Surcharge fees. If it is determined by the city that the discharge of other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment, then the monetary effect of such a parameter or parameters shall be borne by the discharge of such parameters in proportion to the amount of discharge.

(7) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-210 of this chapter.

(8) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the city for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(9) Billing. The billing for normal domestic wastewater services shall consist of monthly billing in accordance with the rates specified by the city,

subject to net and gross rates. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

**18-216. Validity.** (1) All ordinances or parts of ordinances in conflict here with are hereby repealed.

(2) The validity of any section, clause, sentence, or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

(3) This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the City of Oakland, Tennessee. (Ord. #59, June 1983, as replaced by Ord. #01-09-01, Oct. 2001)

### CHAPTER 3

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

##### SECTION

- 18-301. Definitions.
- 18-302. Places required to have sanitary disposal methods.
- 18-303. When a connection to the public sewer is required.
- 18-304. When a septic tank shall be used.
- 18-305. Registration and records of septic tank cleaners, etc.
- 18-306. Use of pit privy or other method of disposal.
- 18-307. Approval and permit required for septic tanks, privies, etc.
- 18-308. Owner to provide disposal facilities.
- 18-309. Occupant to maintain disposal facilities.
- 18-310. Only specified methods of disposal to be used.
- 18-311. Discharge into watercourses restricted.
- 18-312. Pollution of ground water prohibited.
- 18-313. Enforcement of chapter.
- 18-314. Carnivals, circuses, etc.
- 18-315. Violations.

**18-301. Definitions.** The following definitions shall apply in the interpretation of this chapter:

- (1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred (200) feet of any boundary of said property measured along the shortest available right-of-way;
- (2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent;
- (3) "Human excreta." The bowel and kidney discharges of human beings;
- (4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments;
- (5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks

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<sup>1</sup>Municipal code reference  
Plumbing code: title 12, chapter 2.

and Disposal Fields." A minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data;

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

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

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently.

**18-302. Places required to have sanitary disposal methods.** Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta.

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

**18-304. When a septic tank shall be used.** Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

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

**18-305. Registration and records of septic tank cleaners, etc.** Every person, firm, or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer.

**18-306. Use of pit privy or other method of disposal.** Wherever a sanitary method of human excreta disposal is required under § 18-302 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided.

**18-307. Approval and permit required for septic tanks, privies, etc.** Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system.

**18-308. Owner to provide disposal facilities.** It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-302, or the agent of the owner to provide such facilities.

**18-309. Occupant to maintain disposal facilities.** It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein.

**18-310. Only specified methods of disposal to be used.** No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of except by a sanitary method of disposal as specified in this chapter.

**18-311. Discharge into watercourses restricted.** No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board.

**18-312. Pollution of ground water prohibited.** No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial, in any formation which may permit the pollution of ground water.

**18-313. Enforcement of chapter.** It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health, such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction.

**18-314. Carnivals, circuses, etc.** Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits, such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section.

**18-315. Violations.** Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code.

## CHAPTER 4

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

#### SECTION

- 18-401. Definitions.
- 18-402. Standards.
- 18-403. Construction, operation, and supervision.
- 18-404. Statement required.
- 18-405. Inspections required.
- 18-406. Right of entry for inspections.
- 18-407. Correction of existing violations.
- 18-408. Use of protective devices.
- 18-409. Unpotable water to be labeled.
- 18-410. Violations.

**18-401. Definitions.** The following definitions and terms shall apply in the interpretation and enforcement of this chapter:

(1) "Public water supply." The waterworks system furnishing water to the Town of Oakland for general use and which supply is recognized as the public water supply by the Tennessee Department of Health.

(2) "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 any other arrangement.

(3) "Auxiliary intake." Any piping connection or other device whereby water may be secured from a source other than that normally used.

(4) "Bypass." Any system of piping or other arrangement whereby the water may be diverted around any part or portion of a water purification plant.

(5) "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 sewage or other waste or liquid which would be capable of imparting contamination to the public water supply.

(6) "Person." Any and all persons, natural or artificial, including any individual firm, or association, and any municipal or private corporation

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<sup>1</sup>Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

organized or existing under the laws of this or any other state or country. (Ord. #56, Sept. 1981)

**18-402. Standards.** The Oakland Public Water Supply is to comply with Tennessee Code Annotated, §§ 68-221-701 through 68-221-720 as well as the Rules and Regulations for Public Water Supplies, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses, and interconnections, and establish an effective ongoing program to control these undesirable water uses. (Ord. #56, Sept. 1981)

**18-403. Construction, operation, and supervision.** It shall be unlawful for any person to cause a cross connection to be made; or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Health, and the operation of such cross connection, auxiliary intake, bypass or interconnection is at all times under the direct supervision of the superintendent of the Oakland Water Supply. (Ord. #56, Sept. 1981)

**18-404. Statement required.** 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 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 superintendent a statement of the non-existence of unapproved or unauthorized cross connections, auxiliary intakes, bypasses, or interconnections. Such statement shall also contain an agreement that no cross connection, auxiliary intake, bypass, or interconnection will be permitted upon the premises. (Ord. #56, Sept. 1981)

**18-405. Inspections required.** It shall be the duty of the superintendent of the public water supply to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection based on potential health hazards involved, shall be established by the superintendent of the Oakland Public Water Supply and as approved by the Tennessee Department of Health. (Ord. #56, Sept. 1981)

**18-406. Right of entry for inspections.** The superintendent or his authorized representative shall have the right to enter at any reasonable time, any property served by a connection to the Oakland Public Water Supply for the purpose of inspecting the piping system or systems therein for cross connections, auxiliary intakes, bypasses, or interconnections. On request, the owner, lessee, or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections. (Ord. #56, Sept. 1981)

**18-407. Correction of existing violations.** Any person who now has cross connections, auxiliary intakes, bypasses, or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of existing conditions and an appraisal of the time required to complete the work, the amount of time shall be designated by the superintendent of the Oakland Public Water Supply.

The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and the Tennessee Code Annotated, § 68-221-711, within a reasonable time and within the time limits set by the Oakland Public Water Supply shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the utility shall give the customer legal notification that water service is to be discontinued, and physically separate the public water supply from the customer's on-site piping system in such a manner that the two systems cannot again be connected by an unauthorized person.

Where cross connections, interconnections, auxiliary intakes, or bypasses are found that constitute an extreme hazard of immediate concern of contaminating the public water system, the management of the water supply shall require that immediate corrective action be taken to eliminate the threat to the public water system. Immediate steps shall be taken to disconnect the public water supply from the on-site piping system unless the imminent hazard(s) is (are) corrected immediately. (Ord. #56, Sept. 1981)

**18-408. Use of protective devices.** Where the nature of use of the water supplied a premises by the water department is such that it is deemed:

- (1) Impractical to provide an effective air-gap separation,
- (2) That the owner and/or occupant of the premises cannot, or is not willing, to demonstrate to the official in charge of the water supply, or his designated representative, that the water use and protective features of the plumbing are such as to propose no threat to the safety or potability of the water supply,
- (3) That the nature and mode of operation within a premises are such that frequent alterations are made to the plumbing,
- (4) There is a likelihood that protective measures may be subverted, altered, or disconnected.

The superintendent of the Oakland Public Water Supply, or his designated representative, shall require the use of an approved protective device on the service line serving the premises to assure that any contamination that may originate in the customer's premises is contained therein. The protective devices shall be a reduced pressure zone type backflow preventer approved by

the Tennessee Department of Health as to manufacture, model, and size. The method of installation of backflow protective devices shall be approved by the superintendent of the public water supply prior to installation and shall comply with the criteria set forth by the Tennessee Department of Health. The installation shall be at the expense of the owner or occupant of the premises.

Personnel of the Oakland Public Water Supply shall have the right to inspect and test the device or devices on an annual basis or whenever deemed necessary by the superintendent, or his designated representative. Water service shall not be disrupted to test the device without the knowledge of the occupant of the premises.

Where the use of water is critical to the continuance of normal operations or protection of life, property, or equipment, duplicate units shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device or devices. Where it is found that only one unit has been installed and the continuance of service is critical, the superintendent 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 supply shall require the occupant of the premises to make all repairs indicated promptly, to keep the unit(s) working properly, and the expense of such repairs shall be borne by the owner or occupant of the premises. Repairs shall be made by qualified personnel acceptable to the superintendent of the Oakland Public Water Supply.

The failure to maintain backflow prevention device(s) in proper working order shall be grounds for discontinuing water service to a premises. Likewise, the removal, bypassing, or altering of the protective device(s) or the installation thereof so as to render the device(s) ineffective shall constitute grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Oakland Public Water Supply. (Ord. #56, Sept. 1981)

**18-409. Unpotable water to be labeled.** The potable water supply made available to premises 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

The minimum acceptable sign shall have black letters at least one-inch high located on a red background. (Ord. #56, Sept. 1981)

**18-410. Violations.** The requirements contained herein shall apply to all premises served by the Oakland Water System whether located inside or outside the corporate limits and are hereby made a part of the conditions required to be met for the town to provide water services to any premises. Such action, being essential for the protection of the water distribution system against the entrance of contamination which may render the water unsafe healthwise, or otherwise undesirable, shall be enforced rigidly without regard to location of the premises, whether inside or outside the Oakland Corporate Limits.

Any person who neglects or refuses to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), and each day of continued violation after conviction shall constitute a separate offense. (Ord. #56, Sept. 1981)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

**TITLE 20**

**MISCELLANEOUS**

**CHAPTER**

1. PARKS AND RECREATION DEPARTMENT.
2. PUBLIC RECORDS POLICY.
3. PRIVATE ALARM SYSTEMS/FALSE ALARM ORDINANCE.

**CHAPTER 1**

**PARKS AND RECREATION DEPARTMENT**

**SECTION**

- 20-101. Department created.
- 20-102. Office of director of parks and recreation.
- 20-103. Director's duties and responsibilities.
- 20-104. Director to post rules and regulations.

**20-101. Department created.** There is hereby created the department of parks and recreation for the town whose function it shall be to administer the park and recreation program of the town. (as added by Ord. #04-0402, May 2004)

**20-102. Office of director of parks and recreation.** There is hereby created the office of the director of parks and recreation. The director shall have control over all officers and employees assigned to the department of parks and recreation, subject to the administrative supervision, authority, direction and control of the mayor.. (as added by Ord. #04-0402, May 2004, and amended by Ord. #06.09.01, Nov. 2006)

**20-103. Director's duties and responsibilities.** The director of parks and recreation shall have charge of the implementation of recreational or cultural programs that will employ the leisure time of the public in a constructive and wholesome manner. Without limiting the generalities of the foregoing responsibilities, the director shall have the duty: To control and supervise all parks, play and recreational grounds or other municipally owned recreational facilities, to plan, promote and recommend the acquisition, construction, development, maintenance or operation of such public parks, places or recreation grounds and facilities, and to implement and promote recreational programs as may be directed, from time to time, by the mayor. (as added by Ord. #04-0402, May 2004, and amended by Ord. #06.09.01, Nov. 2006, and Ord. #08.05.02, June 2008)

**20-104. Director to post rules and regulations.** The director shall, with the approval of the board of mayor and aldermen, post such rules and regulations as he/she deems necessary for the conduct of persons in the parks and other municipally owned recreational grounds and facilities. (as added by Ord. #04-0402, May 2004, and amended by Ord. #06.09.01, Nov. 2006)

## CHAPTER 2

### PUBLIC RECORDS POLICY

#### SECTION

20-201. Procedures regarding access to and inspection of public records.

**20-201. Procedures regarding access to an inspection of public records.** Consistent with the Public Records Act of the State of Tennessee, personnel of the Town of Oakland shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents.

(1) Employees of the Town of Oakland shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the town recorder as records custodian, or the town recorder's designee. All copying of public records must be performed by employees of the town during regular business hours, or, in the event that town personnel are unable to copy the records, by an entity or person designated by the town recorder.

(2) To prevent excessive disruptions of the work, essential functions, and duties of employees of the Town of Oakland, persons requesting inspection and/or copying of public records are required to complete a records request form to be furnished by the town and furnish a government issued photo identification upon request. Persons requesting access to open public records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication, as provided in subsection (1) above. All requests for public records shall be directed to the town recorder. The statutory time frame for responding to the request is not triggered until the request is made by the requestor to the records custodian.

(3) When records are requested for inspection or copying, the records custodian has up to seven (7) business days to determine whether the town can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required. Within seven (7) business days of a request for records the records custodian shall:

- (a) Produce the records requested;
- (b) Deny the records in writing, giving explanation for denial;

or

(c) In the case of voluminous requests, provide, in writing, the requestor with an estimated time frame for production and an estimation of duplication costs.

(4) There is no charge assessed to a requester for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Open Records Counsel (OORC) schedule of reasonable charges, are as follows:

(a) Standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy - \$.15 per page for each produced.

(b) Standard 8 1/2 x 11 or 8 1/2 x 14 color copy - \$.50 per page for each produced.

(c) Accident reports - \$.15 per page for each standard 8 1/2 x 11 or 8 1/2 x 14 black and white copy produced.

(c) Accident reports - \$.50 per page for each standard 8 1/2 x 11 or 8 1/2 x 14 color copy produced.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual cost to the town. The medium for transfer must be provided by requestor and compatible with town electronic equipment.

(e) If the actual costs are higher than those reflected above, or if the requested records are being produced on a medium other than those listed above, the records custodian may develop its own charges based on actual costs.

(f) Waivers may be permitted for copies of current agendas, minutes from meetings held the previous calendar month, and copies of resolutions or ordinances on current agenda as determined by the records custodian.

(5) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval, redaction and duplication will not result in an assessment of labor charges to the requestor. Employee labor in excess of one (1) hour may be charged to the requestor, in addition to the cost per copy, as provided in subsection (4). The records custodian may require payment in advance of producing any request. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.

(a) For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula: In calculating the charge for labor, a department head shall determine the number of hours each employee spent producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The department head will then multiply total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(b) When the total number of requests made by requestor within a calendar month exceeds four (4), the requests will be aggregated, and the requestor shall be charged a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requestor that the aggregation limit has been met. Request

for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, shall not be counted in the aggregated requests.

(6) If the town is assessed a charge to retrieve the requested records from archives or any other entity having possession of requested records, the records custodian may assess the requestor the cost assessed to the town.

(7) Upon completion of a records request the requestor may pick up the copies of records at the office of the records custodian. Alternatively, the requestor may choose to have the copies of records delivered via United States Postal Service; provided that the requestor pays all related expenses in advance.

(8) The police chief shall maintain in his office records of undercover investigators containing personally identifying information. All other personnel records of the police department shall be maintained in the office of the records custodian. The police department shall maintain its own personnel records only if under the supervision of a highly trained records custodian as determined by the town recorder as the official town record custodian. Requests for personnel records other than for undercover investigators, shall be made to the records custodian, who shall promptly notify the police chief of such request. The police chief shall make the final determination as to the release the information requested. In the event that the police chief refuses to release the information, he shall provide a written explanation of his reasons for not releasing the information.

(9) If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection. (as added by Ord. #13-20, Dec. 2013)

### CHAPTER 3

#### PRIVATE ALARM SYSTEMS/FALSE ALARM ORDINANCE

##### SECTION

- 20-301. Title.
- 20-302. Definitions.
- 20-303. Automatic dialing devices.
- 20-304. Response to false alarm - required reports of corrective action and disconnection.
- 20-305. Enforcement.
- 20-306. False alarm service charge.
- 20-307. Liability of town limited.
- 20-308. Disposition of fees.
- 20-309. Violations.

**20-301. Title.** This chapter shall be known as the "private alarm systems ordinance." (as added by Ord. #15-15, Nov. 2015)

**20-302. Definitions.** (1) "Activate." Means to set off an alarm system indicating in any manner an incident of burglary, robbery, fire, etc.

(2) "Alarm systems." Any mechanical or electrical/electronic or radio controlled device which is designed to be used for the detections of any fire or unauthorized entry into a building, structure or facility, or for alerting others of fire or of the commission of an unlawful act within a building, structure or facility, or both, which emits a sound or transmits a signal or message when activated. Alarm systems include, but are not limited to, direct dialing telephone devices, audible alarms and monitored alarms. Excluded from the definition of alarm systems are devices which are designed or used to register alarms that are audible or visible and emanate from any motor vehicle; auxiliary devices installed by telephone companies to protect telephone systems from damage or disruption of service; self-contained smoke detectors; and medical alert alarms.

(3) "Automatic dialing device." An alarm system which automatically sends over regular telephone lines, by direct connection, or otherwise, a pre-recorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect, but shall not include such telephone lines exclusively dedicated to an alarm central station which are permanently active and terminate within the dispatcher's office.

(4) "Commercial premises." Any structure or area which is not defined herein as residential premises.

(5) "False alarms." The activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence or intentional misuse by the owner or lessee of an alarm system or his employees,

servants or agents; or any other activation of the alarm system not caused by fire or forced entry or attempted forced entry or robbery or attempted robbery; such terminology does not include alarms caused by acts of nature such as tornadoes, other severe weather conditions, or alarms caused by telephone line trouble, or other conditions which are clearly beyond the control of the alarm user. A maximum of three (3) false burglar alarms, false robbery/panic alarms, and false fire alarms, will be granted per alarm device within a twelve (12) month period for all commercial/business properties. A maximum of five (5) false burglar alarms, false robbery/panic alarms, and false fire alarms, will be granted per alarm device within a twelve (12) month period for all residential properties. A twelve (12) month period shall commence on the date of the first false alarm call. All false subsequent activation will be considered chargeable violations.

(6) "Fire office." The Fire Chief of the Oakland Fire Department or his designated representatives.

(7) "Law enforcement officer." The Chief of Police of the Oakland Police Department or his designated representatives.

(8) "Person." Any natural person, firm, partnership, association, corporation, company or organization of any kind, to include government or governmental subdivision or agency thereof.

(9) "Residential premises." Any structure or combination of structures which serve as dwelling units including single family as well as multi-family units and churches, public schools and other non-profit organizations. (as added by Ord. #15-15, Nov. 2015)

**20-303. Automatic dialing devices.** (1) Within one hundred twenty (120) days of the effective date of the ordinance enacting this chapter, it shall be a violation of this chapter for any automatic dialing device to call the 911 or E911 emergency line. Such devices shall be restricted to dialing the non-emergency police, fire or Emergency Medical Services phone numbers.

(2) Any automatic dialing device shall:

(a) Have a clearly understandable recording;

(b) Be capable of repeating itself a minimum of two (2) times;

(c) Be capable of automatically resetting itself so as to not continuously call police, fire or EMS phone numbers.

(3) Programmed messages on an automatic dialing device must include and are restricted to the following:

(a) The owner's/resident's names and the exact street number and name;

(b) A statement that it is a burglary or robbery/panic "ALARM ONLY." It shall not say burglary or robbery "in progress."

(c) A statement of the hours the business is open, if the device is used for both burglary and robbery/panic alarms.

(d) A statement that a third-party has been notified, and the identity of that third-party, if a third-party is notified by the device. (as added by Ord. #15-15, Nov. 2015)

**20-304. Response to false alarm - required reports of corrective action and disconnection.** (1) The only alarm the Oakland Police Department, Fire Department, or EMS will respond to are:

- (a) Burglary;
- (b) Robbery/hold-up;
- (c) Fire;
- (d) Medical;
- (e) Panic.

(2) Responsibility for a false alarm shall be borne by the owner or lessee of the alarm system or his/her employee, servant or agent occupying and/or controlling the premises at the time of the occurrence of the false alarm.

(3) A response to an alarm shall result when any police, fire, or EMS is dispatched to or otherwise learns of the activation of any alarm system.

(4) After the allowable false alarms set out in §20-302(5), each person who owns, operates, leases or controls any premise, commercial or residential, having an alarm system, shall be cited to Oakland Municipal Court for any response to a false alarm. Within fifteen (15) days of the date of a conviction the person shall show proof to the police department of the corrective action taken to remedy the problem/situation. (as added by Ord. #15-15, Nov. 2015)

**20-305. Enforcement.** Oakland Police Department officers are specifically authorized to enforce this chapter. Any Oakland police officer may lawfully issue a citation to an owner, operator or user of a functional alarm system whose alarm system has given a false alarm in excess of the number of false alarms allowed §20-302(5). Any person who shall maliciously cause a false alarm to be reported shall be in violation of this chapter. (as added by Ord. #15-15, Nov. 2015)

**20-306. False alarm service charge.** An alarm user shall be charged a service charge of twenty-five dollars (\$25.00) for each false alarm in excess of the number of alarms allowed §20-302(5). Such service charge shall be remitted to the Oakland Police Department by the alarm user upon receipt of the statement for such service charge. In the event of more than three (3) false alarms in any given twelve (12) month period (commercial/business) or five (5) false alarms in any given twelve (12) month period (residential), the charge for each false alarm, over the allowable number of false alarms shall be twenty-five dollars (\$25.00) and the actual costs of such response by the police department, fire department or EMS personnel including the costs of equipment, fuel, personnel, administration, and other such factors as determined by the chief municipal finance officer. (as added by Ord. #15-15, Nov. 2015)

**20-307. Liability of town limited.** The town assumes no liability for:

- (1) Any defects in the operation of an alarm system.
- (2) For failure or neglect to respond appropriately upon receipt of an alarm.
- (3) For failure or neglect of any person in connection with the installation, operation or maintenance of an alarm system.
- (4) The transmission of alarm signals, prerecorded alarm messages or the replaying of such signals and messages. (as added by Ord. #15-15, Nov. 2015)

**20-308. Disposition of fees.** All fees collected pursuant to this chapter shall be paid to the Town of Oakland general fund. (as added by Ord. #15-15, Nov. 2015)

**20-309. Violations.** (1) It shall be a violation of this chapter when any Oakland Police Department, Fire Department, or EMS personnel respond to a false alarm after the allowable false alarms set out in §20-302(5) have been exhausted.

(2) Commercial property - fire alarms. Any person who owns, operates, or leases an alarm system and who shall knowingly and purposefully fail to respond to his premises within one (1) hour after notification from the Oakland Fire Department or alarm monitoring agency, whether false, or not, shall be deemed to have violated this chapter.

(3) It shall be a violation of this chapter for any alarm company to set off a false alarm while installing, repairing or doing maintenance work on an alarm system.

(4) Any non-compliance with the requirements of this chapter shall constitute a violation and each incidence of non-compliance shall constitute a separate violation, punishable by a fine of fifty dollars (\$50.00) plus court costs. (as added by Ord. #15-15, Nov. 2015)

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**ORDINANCE NO. 03.01.00**

**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF OAKLAND TENNESSEE.**

**WHEREAS** some of the ordinances of the Town of Oakland are obsolete, and

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

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

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

**Section 1. Ordinances codified.** The ordinances of the town of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Oakland Municipal Code," hereinafter referred to as the "municipal code."

**Section 2. Ordinances repealed.** All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

**Section 3. Ordinances saved from repeal.** The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the

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portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

**Section 4. Continuation of existing provisions.** Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

**Section 5. Penalty clause.** Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."<sup>1</sup>

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the

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<sup>1</sup>State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

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

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

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

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

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

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

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

Passed 1st reading, March 16, 18 2000

Passed 2nd reading, April 20, 18 2000

William C. McLean  
Mayor

K. Yvonne Beaman  
Clerk/Recorder