THE

RED BANK

MUNICIPAL

CODE

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

January 1996

CITY OF RED BANK, TENNESSEE

MAYOR

John Roberts

VICE MAYOR

Eddie Pierce

COMMISSIONERS

Ed LeCompte
Terry Pope
Carol Rose

MANAGER

Randall G. Smith

RECORDER

Ruth Rohen

Preface

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

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

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

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

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

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

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

(3) That the city agrees to reimburse MTAS for the actual costs of reproducing replacement pages for the code (no charge is made for the consultant's work, and reproduction costs are usually nominal).

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 Bobbie J. Sams, the MTAS Word Processing Specialist who did all the typing on this project, and Tracy G. Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Codification Specialist

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER

1. General power to enact ordinances: (6-19-101)

2. All ordinances shall begin, "Be it ordained by the City of Red Bank as follows:" (6-20-214)

3. Ordinance procedure

   (a) Every ordinance shall be read on two (2) different days in open session before its adoption, and not less than one (1) week shall elapse between first and second readings, and any ordinance not so read shall be null and void. Any city incorporated under chapters 18-23 of this title may establish by ordinance a procedure to read only the caption of an ordinance, instead of the entire ordinance, on both readings. Copies of such ordinances shall be available during regular business hours at the office of the city recorder and during sessions in which the ordinance has its second reading.

   (b) An ordinance shall not take effect until fifteen (15) days after the first passage thereof, except in case of an emergency ordinance. An emergency ordinance may become effective upon the day of its final passage, provided it shall contain the statement that an emergency exists and shall specify with distinctness the facts and reasons constituting such an emergency.

   (c) The unanimous vote of all members of the board present shall be required to pass an emergency ordinance.

   (d) No ordinance making a grant, renewal, or extension of a franchise, or other special privilege, or regulating the rate to be charged for its service by any public utility shall ever be passed as an emergency ordinance.

   (e) No ordinance shall be amended except by a new ordinance. (6-20-215)

4. In all cases under section 6-20-215 the vote shall be determined by yeas and nays, the names of the members voting for or against an ordinance shall be entered upon the journal. (6-20-216)

5. Every ordinance shall be immediately taken charge of by the recorder and by him numbered, copied in an ordinance book, filed and preserved in his office. (6-20-217)

6. Each ordinance of a penal nature, or the caption of each ordinance of a penal nature, shall be published after its final passage in a newspaper of general circulation in the city.

No such ordinance shall take effect until the ordinance, or its caption, is published except as otherwise provided in chapter 54 part 5 of this title. (6-20-218)

TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

1. BOARD OF COMMISSIONERS.
2. ADMINISTRATIVE ORGANIZATION.
3. CODE OF ETHICS.

CHAPTER 1

BOARD OF COMMISSIONERS[2]

SECTION

1-101. Elections.

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[1]Charter reference

For other and more detailed provisions relating to the administration, officers and personnel, see the city charter, particularly chapters 20, 21 and 22.

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Water and sewers: title 18.
Zoning: title 14.
City manager; miscellaneous powers: title 20, chapter 10.

[2]Charter reference

For provisions in the charter with respect to the board of commissioners, generally, see Tennessee Code Annotated, title 6, chapter 20. (There is an index at the beginning of chapter 20 which provides a detailed breakdown of the provisions in the charter.) In addition, see the following provisions in the charter that outline some of the powers and duties of the board of commissioners:

Appointment and removal of city judge: § 6-2120.
Appointment and removal of city manager: § 6-2101.
Compensation of city attorney: § 6-2110.
Creation and combination of departments: § 6-2111.
Subordinate officers and employees: § 6-2102.
Taxation
Power to levy taxes: § 6-2108.
Change tax due dates: § 6-2214.
Removal of mayor and commissioners: § 6-2032.

1-102. Election precincts.
1-103. Time and place of regular meetings.
1-104. Order of business.
1-105. General rules of order.
1-106. Compensation for mayor and commissioners.

1-101. Elections. (1) All elections for the office of city commissioner shall be held on the second (2nd) Tuesday in June of each election year as follows:

(a) Districts II and V: City commissioners from Districts II and V shall be elected on the second (2nd) Tuesday in June, 1957, and on the same day in each fourth (4th) year thereafter.

(b) Districts I, III and IV: City commissioners from Districts I, III and IV shall be elected on the second (2nd) Tuesday of June, 1959, and on the same day in each fourth (4th) year thereafter.

(2) All elections held hereunder shall be conducted by the board of election commissioners of Hamilton County, Tennessee, in accordance with the general laws of the State of Tennessee. The city shall be liable for and shall pay all costs of the elections which are properly chargeable to the city under the laws of the State of Tennessee in such cases.

(3) The city manager shall make all the necessary arrangements with the board of election commissioners of Hamilton County, Tennessee, for the holding of all elections hereunder. (1975 Code, § 1-101)

1-102. Election precincts. The city shall be divided into three election precincts which shall have the following boundaries:

(1) First precinct: Bounded on the north by the present line of the White Oak Precinct, and on the east, south, and west, by the corporate limits of the City of Red Bank, Tennessee.

(2) Second precinct: Beginning at the point where the northern line of the present White Oak Precinct intersects the eastern line of the corporate limits of the City of Red Bank, Tennessee; thence northwardly along the corporate limit line of the City of Red Bank, Tennessee to the center line of Ashland Terrace; thence westwardly along the center line of Ashland Terrace to the center line of Dayton Boulevard; thence southwardly along the center line of Dayton Boulevard to the point where the center line of Morrison Springs Road, as extended, intersects the center line of Dayton Boulevard; thence westwardly along the center line of Morrison Springs Road to the corporate limit line of the City of Red Bank, Tennessee; thence with said corporate line southwardly to the point where it intersects the northern line of the present White Oak Precinct; thence eastwardly with the present northern line of the White Oak Precinct to the point of beginning.

(3) Third precinct: Beginning at the point where the center line of Morrison Springs Road intersects the western line of the corporate limits of the

City of Red Bank, Tennessee; thence northwardly, eastwardly, and southwardly, with said corporate limit line around the northern end of said city and back to the center line of Ashland Terrace where it intersects the eastern corporate limit line; thence westwardly with the northern line of the second precinct heretofore described to the point of beginning. (1975 Code, § 1-101.1)

1-103. Time and place of regular meetings. The board of commissioners shall hold regular semi-monthly meetings at 7:00 P.M. on the first and third Tuesdays of each month at the city hall, 3117 Dayton Boulevard, Red Bank, Tennessee. (1975 Code, § 1-102, as amended by Ord. #05-907, Aug. 2005)

1-104. Order of business. At each meeting of the board of commissioners, the following regular order of business shall be observed:

(1) Call to order.
(2) Roll call.
(3) Invocation.
(4) Pledge of Allegiance.
(5) Consideration of the minutes for approval or correction.
(6) Communication from the mayor.
(7) Commissioner's report.
(8) City manager report.
(9) Unfinished business.
(10) New business.
(11) Citizen comments.
(12) Adjournment.

The board of commissioners may, upon motion duly made, seconded and approved, vary the order of business from time to time as the requirements of the board of commissioners and the best interest of the citizens of the City of Red Bank may require. (1975 Code, § 1-103, as replaced by Ord. #15-1019, Feb. 2015)

1-105. General rules of order. The rules of order and parliamentary procedure contained in Robert's Rules of Order, Newly Revised, shall govern the transaction of business by and before the board of commissioners 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. (1975 Code, § 1-104, modified)

1-106. Compensation for mayor and commissioners. (1) A monthly salary of $200.00 per month is established for each of the commissioners and shall be paid from the general fund.

(2) A monthly salary of $300.00 per month is established for the mayor and shall be paid from the general fund.

(3) The monthly salary shall be paid, in arrears, for each month that the mayor and/or, as is applicable, each commissioner in question is in office on the first day of the preceding month. No mayor or commissioner shall receive monthly compensation for any such month in which he is not regularly and properly in office on the first day of the month at issue.

(4) The first month for which compensation shall be paid is established to be the month of July 1, 2001. (as added by Ord. #01-836, April 2001)

CHAPTER 2

ADMINISTRATIVE ORGANIZATION[1]

SECTION

1-201. Generally.
1-202. Designation of deputy recorders.
1-203. Bonding of deputy recorders.
1-204. Regulations prescribed by recorder.
1-205. Assistant city manager, powers, duties.

1-201. Generally. Except as otherwise authorized by state law and expressly provided in this code, the city shall generally be organized with such officers, departments, and personnel as are provided for in the municipal charter[2] with the city manager serving as the over-all administrative head of the municipal government under the direction and supervision of the board of commissioners. (1975 Code, § 1-201)

1-202. Designation of deputy recorders. The city recorder may designate, as his deputies, for the purpose of collecting and receipting for fines paid voluntarily by offenders who elect not to appear in city court, where such election is permissible under this code, such employees of the city as the recorder may deem necessary. (1975 Code, § 1-202)

1-203. Bonding of deputy recorders. No person shall be designated as a deputy recorder unless and until such person is covered with an adequate surety or fidelity bond, issued by an insurance company licensed in the State of Tennessee, in such sum as may be prescribed by the city recorder, not, however, less than $5,000.00. (1975 Code, § 1-203)

1-204. Regulations prescribed by recorder. The city recorder shall prescribe such rules and regulations as he may deem necessary for the operation of such deputy recorders and for the accounting of the money collected and received by them. (1975 Code, § 1-204)

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[1]Municipal code reference
Gas and electricity: title 19.
Sewage disposal: title 18.
Telephone service: title 20.
Water service: title 18.

[2]Charter reference
City manager, officers, and employees: §§ 6-2101--6-2143.

1-205. Assistant city manager, powers, duties. (1) There shall be hereby created the position of assistant city manager with such person to serve in such capacities and to have such responsibilities as shall hereafter be prescribed or assigned by the city manager, but to have, in any event, all the rights, powers and authority of the city manager to act for and in the city manager's place and stead in the event of the city manager's absence and unavailability and/or illness and unavailability, disability or death.

(2) Such assistant city manager shall be accorded such title and such responsibilities upon appointment by the city manager.

(3) In the event of the death or resignation of the city manager then in office, the assistant city manager shall serve in the place and stead of the city manager until an interim city manager shall be named by the board of commissioners or, failing which, until the office of city manager shall otherwise be filled; however, during such time the assistant city manager may be removed from such position and from such duties and responsibilities by the board of commissioners with or without cause.

(4) The compensation of any such person, serving in such position, and with such responsibilities shall be in such amounts as shall from time to time be approved by the board of commissioners. (1975 Code, § 1-205)

CHAPTER 3

CODE OF ETHICS

SECTION

1-301. Applicability.
1-302. Definition of "personal interest."
1-303. Disclosure of personal interest by official with vote.
1-304. Disclosure of personal interest in non-voting matters.
1-305. Acceptance of gratuities, etc.
1-306. Use of information.
1-307. Use of municipal time, facilities, etc.
1-308. Use of position or authority.
1-309. Outside employment.
1-310. Ethics complaints.
1-311. Violations.

1-301. 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 those separate entities. (as added by Ord. #07-923, April 2007)

1-302. Definition of "personal interest." (1) For purposes of §§ 1-303 and 1-304, "personal interest" means:

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

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #07-923, April 2007)

1-303. 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[1] from voting on the measure. (as added by Ord. #07-923, April 2007)

1-304. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the 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. #07-923, April 2007)

1-305. 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. #07-923, April 2007)

1-306. 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. #07-923, April 2007)

1-307. 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.

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[1]Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

(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. #07-923, April 2007)

1-308. 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. #07-923, April 2007)

1-309. 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. #07-923, April 2007)

1-310. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

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

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (as added by Ord. #07-923, April 2007)

1-311. 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. #07-923, April 2007)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER
1. STRATEGIC PLANNING COMMISSION.

CHAPTER 1

STRATEGIC PLANNING COMMISSION[1]

SECTION
2-101. Established.

2-101. Established. (1) There is hereby established a planning commission to act in an advisory capacity to the city commission. Said commission will be advisory only and its purpose shall be to coordinate various city functions between the city manager, mayor and city commission and various agencies of the city; to facilitate the exchange of information between the city board and its agencies; to participate in planning and in the coordination of the activities of all city agencies; to consider other functions and purposes in furtherance of establishing a better organized and more efficiently operated overall city government and city functions. The membership of said commission shall be as follows:

(a) Members of the City Board of Commissioners
(b) The city manager
(c) An educator
(d) A businessman
(e) A senior citizen
(f) A student (high or college)
(g) A realtor
(h) A physically handicapped
(i) A minority
(j) A recreator
(k) A homeowner from District 1
(l) A homeowner from District 2
(m) A homeowner from District 3

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[1]Ord. No. 96-725 added these provisions to the municipal code as chapter 7 to title 20. However, since title 2 is designated for boards and commissions it was added here.

(2) The commissioner elected from each numbered district and each of the at large commissioners shall each have one appointment. The remainder of the members shall be appointed by a majority vote of the commission.

(3) No member appointed by the process described above shall be ineligible to serve by reason of not falling into the categories hereinabove set forth.

(4) A new strategic planning commission shall be appointed within 60 days next following each municipal election. Board members shall be eligible for successive terms without limitation.

(5) The strategic planning commission shall meet monthly. The mayor shall act as chairman and minutes shall be kept of the meeting, which meetings shall be open to the public. (as added by Ord. #96-725, Feb. 1997)

TITLE 3

MUNICIPAL COURT[1]

CHAPTER
1. CITY JUDGE.
2. COURT ADMINISTRATION.

CHAPTER 1

CITY JUDGE

SECTION
3-101. Salary.

3-101. Salary. (1) The salary of the Red Bank City Judge, a part-time position, for the eight (8) year term beginning during the month of August 2006, and following the election and swearing in of the city judge, shall be established at the rate of $1,666.67 per month, which totals to $20,000.00 per annum.

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[1]Charter references
For provisions of the charter governing the city judge and city court operations, see Tennessee Code Annotated, title 6, chapter 21, part 5.
For specific charter provisions in part 5 related to the following subjects, see the sections indicated:
City judge:
Appointment and term: § 6-2120.
Jurisdiction: § 6-2120.
Qualifications: § 6-2120.
City court operations:
Appeals from judgment: § 6-2126.
Appearance bonds: § 6-2123.
Arrest warrants: § 6-2122.
Fines and costs:
Amounts: §§ 6-2124.
Collection: § 6-2125.
Municipal code references
Codes Enforcement officer and/or Animal Control Officer's right and power to issue ordinances summonses as citations in lieu of arrest: title 20, chapter 8.
Fire marshalls right and power to issue ordinance summons as citations in lieu of arrest: title 7, chapter 2.
Privilege tax on litigation in the city court: title 5, chapter 6.

(2) The city judge shall not be entitled to receive any benefits that are reserved for fulltime positions, such as insurance and retirement. (1975 Code, § 1-1401, as replaced by Ord. #98-775, Aug. 1998, and Ord. #06-913, Feb. 2006)

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Procedures for payment of court fines and costs; establishment of offense for failure to abide by the terms and conditions set by the city court judge.
3-202. Imposition of fines, penalties and costs.

3-201. Procedures for payment of court fines and costs; establishment of offense for failure to abide by the terms and conditions set by the city court judge. (1) The city manager shall establish parameters as to the times, date, places and personnel authorized to receive and give receipt for city court fines and court costs.

(2) Within his judicial discretion, the city court judge shall designate which fines and costs may be eligible for deferred payment and shall, as to those instances selected in his discretion for deferred payment, specify the times, dates and personnel within the parameters set by the city manager.

(3) In each and every instance in which a person convicted of the violation of a city ordinance and/or other statutory offense shall be given additional time within which to pay fines and costs, such individual shall be given written instructions as to the time, place, and persons or office to whom said payment shall be made at the time of the judgement hearing.

(4) Failure of a person liable to pay fines and/or court costs within the time provided by the city court judge, and/or to the person and/or at the place so specified shall be guilty of the separate offense of CONTEMPT OF COURT.

(5) Any conduct or statement by any person adjudged liable for the payment of any fines or costs and/or any conduct or statement by any person evidencing any interest in the liability of any other party who is otherwise liable for the payment of city court fines and/or costs who shall, in the city hall or on the city hall premises conduct him or herself in a loud (i.e., other than conversational tones), abusive, threatening, obnoxious, outrageous, boisterous, and/or disorderly fashion and/or who reasonably causes a fear of, or threat of, bodily harm or intimidation in any person present and/or in any employee of the city, and/or any elected or appointed official of the City of Red Bank shall also be guilty of the separate offense of CONTEMPT OF COURT.

(6) Any person convicted of the offense of CONTEMPT OF COURT shall be liable to imprisonment for up to ten (10) days, and a fine not to exceed five hundred dollars ($500.00) for each incident constituting CONTEMPT OF COURT, as defined hereinabove. (1975 Code, § 1-1402)

3-202. Imposition of fines, penalties and costs. (1) All fines, penalties and costs shall be imposed and recorded by the city judge on the city court docket in open court.

(2) In all cases heard or determined in the city court, the city judge shall tax in the bill of costs, municipal court fees and costs in the maximum amounts, authorized by Tennessee Code Annotated § 8-21-401, in accordance with the schedule hereinafter incorporated below, in addition to all applicable litigation taxes and specific fees required to be imposed on specific cases. Of the above fees, one dollar ($1.00) on municipal code violations shall be sent to the state for municipal training mandated by Tennessee Code Annotated § 16-8-304, et seq.

BREAK DOWN OF COURT COST

City		State		Criminal	
Affidavit & Summons	$15.00	Affidavit & Summons	$15.00	Affidavit & Warrant	$15.00
Judgment	$15.00	Judgment	$15.00	Judgment	$15.00
Docketing	$15.00	Docketing	$15.00	Docketing	$15.00
Certifying Bill of Costs	$15.00	Certifying Bill of Costs	$15.00	Certifying Bill of Costs	$15.00
Courtroom Security	$2.00	Courtroom Security	$2.00	Arrest w/Bond	$45.00
Technology Fee	$15.00	Technology Fee	$15.00	Courtroom Security	$2.00
Elec. Handheld Fee	$5.00	Elec. Handheld Fee	$5.00	Technology Fee	$15.00
Court Cost	$42.00	Court Cost	$62.00	Court Cost	$62.00
Litigation Tax	$13.75	Litigation Tax	$13.75	Privilege Tax	$29.50
MJC	$1.00	MJC	$1.00	MJC	$1.00
Guilty Plea	**$138.75**	**Guilty Plea**	**$158.75**	**Guilty Plea w/Arrest**	**$214.50**

Affidavit & Summons	$15.00	Affidavit & Summons	$15.00	Affidavit & Warrant	$15.00
Docketing	$15.00	Docketing	$15.00	Docketing	$15.00
Certifying Bill of Costs	$15.00	Certifying Bill of Costs	$15.00	Certifying Bill of Costs	$15.00
Courtroom Security	$2.00	Courtroom Security	$2.00	Arrest w/Bond	$45.00
Technology Fee	$15.00	Technology Fee	$15.00	Courtroom Security	$2.00
Elec. Handheld Fee	$5.00	Elec. Handheld Fee	$5.00	Technology Fee	$15.00

Court Cost	$42.00
MJC	$1.00
Dismissed	**$110.00**

Court Cost	$62.00
MJC	$1.00
Dismissed	**$130.00**

Court Cost	$62.00
MJC	$1.00
Dismissed w/Arrest	**$170.00**

Head Trauma	
Speeding	$5.00
Driving on R/S DL	$15.00
DUI	$15.00
Reckless Driving	$30.00
Add to All Cases MJC	$1.00

Taxes	
City/State Citation (Lit Tax)	$13.75
Criminal Cases (Priv. Tax)	$29.50
DUI/Drug (Priv. Tax)	$26.50
Public Defender Fee	$12.50
TBI Fee (Drug Cases)	$20.00
Diversion Application Fee	$100.00
Continuance	$5.00
Certified Mail	$7.00

Affidavit & Warrant	$15.00
Judgment	$15.00
Docketing	$15.00
Certifying Bill of Costs	$15.00
Arrest w/Citation	$25.00
Courtroom Security	$2.00
Technology Fee	$15.00
Court Cost	$62.00
Privilege Tax	$29.50
MJC	$1.00
Guilty Plea w/Misd. Cit.	**$194.50**

Affidavit & Warrant	$15.00
Docketing	$15.00
Certifying Bill of Costs	$15.00
Arrest w/Citation	$25.00
Courtroom Security	$2.00
Technology Fee	$15.00
Court Cost	$62.00
MJC	$1.00
Dismissed w/Misd. Cit.	**$150.00**

(as added by Ord. #99-790, July 1999, replaced by Ord. #05-902, May 2005, and amended by Ord. #14-1015, Oct. 2014)

TITLE 4

MUNICIPAL PERSONNEL[1]

CHAPTER
1. PERSONNEL SYSTEM.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
3. COMPREHENSIVE TRAVEL POLICY.
4. SOCIAL MEDIA POLICY.
5. INTERNET AND ELECTRONIC MAIL POLICY.
6. TITLE VI COMPLIANCE POLICY.

CHAPTER 1

PERSONNEL SYSTEM

SECTION
4-101. Purpose.
4-102. General principles.
4-103. Coverage.
4-104. Administration.
4-105. Personnel rules and regulations.
4-106. Records.
4-107. Right to contract for special services.
4-108. Discrimination.
4-109. Amendments.

4-101. Purpose. The purpose of this chapter is to establish a system of personnel administration in the City of Red Bank that is based on merit and fitness. The system shall provide a means to select, develop, and maintain an effective municipal work force through the impartial application of personnel policies and procedures free of personal and political considerations. (Ord. #92-638, Feb. 1995)

4-102. General principles. Employment shall be based on merit and fitness regardless of race, color, religion, sex, age, creed, national origin or disability. Employees shall be compensated in relation to the value of the work they perform and performance shall be a major factor in justifying salary adjustments and increases. (Ord. #92-638, Feb. 1995)

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[1]Municipal code reference
City manager; miscellaneous powers: title 20, chapter 10.

4-103. Coverage. All officers and employees of the city shall be divided into the classified and the exempt services. The provision of this section shall apply to all employees of the city, except exempt employees. Exempt from the coverage of this document are:

(1) All elected officials and persons appointed to fill vacancies in elective offices;

(2) Members of appointed committees, board and commissions;

(3) Volunteer personnel and personnel appointed to serve without pay as proscribed by the city commission;

(4) Consultants, advisors, and counsels rendering temporary professional services;

(5) Independent contractors;

(6) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property;

(7) Seasonal or temporary employees who are employed by the city for not more than four (4) months during the fiscal year;

(8) Persons rendering part-time services;

(9) Student interns and work-study employees;

(10) Such other positions as may be designated by the city manager. (Ord. #92-638, Feb. 1995)

4-104. Administration. The personnel system shall be administered by the city manager or his/her designated representative, who shall have the following duties and responsibilities:

(1) Exercise leadership in developing an effective personnel administration system subject to the provision in this chapter, other ordinances, the city charter, and federal and state laws relating to personnel administration.

(2) Established policies and procedures for the recruitment, appointment, and discipline of all employees of the municipality subject to those policies as set forth in this chapter, the city charter and the municipal code.

(3) Fix and establish the number of employees in the various municipal government departments and offices and determine the duties, authority, responsibility, and compensation pursuant to the policies as set forth in the city charter and code, and subject to the approval of the board of commissioners and budget limitations.

(4) Foster and develop programs for the improvement of employee effectiveness, including training, safety and health.

(5) Maintain records of all employees subject to the provisions of this chapter of the city code which shall include each employee's class, title, pay rates, and other relevant data.

(6) Make periodic reports to the board of commissioners regarding the administration of the personnel system.

(7) Recommend to the board of commissioners a position classification plan, and install and maintain such a plan upon approval by the board of commissioners.

(8) Be responsible for certification of payrolls.

(9) Perform such other duties and exercise such other authority in personnel administration as may be prescribed by law and the board of commissioners. (Ord. #92-638, Feb. 1995)

4-105. Personnel rules and regulations. The city manager or his/her designated representative shall develop rules and regulations necessary for the effective administration of the personnel system. The board of commissioners shall adopt changes to the rules presented to them by resolution. If the board of commissioners has taken no action within ninety (90) days after receipt of the draft personnel rules and regulations, they shall become effective as if they had been adopted, and shall have the full force and effect of law. Amendments to the rules and regulations shall be made in accordance with the procedure below. (Ord. #92-638, Feb. 1995)

4-106. Records. The city manager or his/her designated representative shall cause to be maintained adequate records of the employment record of every employee. (Ord. #92-638, Feb. 1995)

4-107. Right to contract for special services. The board of commissioners may direct the city manager to contract with any competent agency for the performance of such technical services in connection with the establishment of the personnel system or with its operation as may be deemed necessary. (Ord. #92-638, Feb. 1995)

4-108. Discrimination. No person in the classified service or seeking admission thereto, shall be employed, promoted, demoted, or discharged, or in any way favored or discriminated against because of political opinions or affiliations, or because of race, color, creed, national origin, sex, ancestry, age, religious belief or disability. (Ord. #92-638, Feb. 1995)

4-109. Amendments. Amendments or revisions of these rules may be recommended for adoption by any elected official or the city manager. Such amendments or revisions of these rules shall be by ordinance and shall become effective after public hearing and approval by the governing body. (Ord. #92-638, Feb. 1995)

CHAPTER 2

OCCUPATIONAL SAFETY AND HEALTH PROGRAM

SECTION

4-201. Title.
4-202. Purpose.
4-203. Coverage.
4-204. Standards authorized.
4-205. Variances from standards authorized.
4-206. Administration.
4-207. Funding the program plan.
4-408. Plan adopted.

4-201. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Red Bank. (1975 Code, § 1-901, as replaced by Ord. #00-824, § 1, Sept. 2000, and Ord. #16-1060, July 2016)

4-202. Purpose. The City of Red Bank will continue to maintain an effective and comprehensive occupational safety and health program plan for its employees and shall:

(1) Provide a safe and healthful place and condition of employment that includes:

(a) Top management commitment and employee involvement;

(b) Continually analyze the worksite to identify all hazards and potential hazards;

(c) Develop and maintain methods for preventing or controlling the existing or potential hazards; and

(d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

(2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.

(3) Record, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

(4) Consult with the Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.

(5) Consult with the Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are

considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State.

(6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program plan, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program plan. (1975 Code, § 1-902, as replaced by Ord. #00-824, § 1, Sept. 2000, and Ord. #16-1060, July 2016)

4-203. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Red Bank shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1975 Code, § 1-903, as replaced by Ord. #00-824, § 1, Sept. 2000, and Ord. #16-1060, July 2016)

4-204. Standards authorized. The occupational safety and health standards adopted by the City of Red Bank are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (1975 Code, § 1-904, as replaced by Ord. #00-824, § 1, Sept. 2000, and Ord. #16-1060, July 2016)

4-205. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, the city may request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, VARIANCES FROM OCCUPATIONAL SAFETY AND HEALTH STANDARDS, CHAPTER 0800-01-02, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the safety director will notify or serve notice to city employees, and present them with an opportunity for a hearing. The posting of notice on the main bulletin board shall be deemed sufficient notice to employees. (as added by Ord. #00-824, § 1, Sept. 2000, and replaced by Ord. #16-1060, July 2016)

4-206. Administration. For the purposes of this ordinance the city manager is designated as the safety director of occupational safety and health to perform duties and to exercise powers assigned to plan, develop, and administer this program plan. The city manager may designate an acting safety

director of occupational health. The safety director shall develop a plan of operation for the program plan in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, SAFETY AND HEALTH PROVISIONS FOR THE PUBLIC SECTOR, CHAPTER 0800-01-05, as authorized by Tennessee Code Annotated, title 50. (as added by Ord. #00-824, § 1, Sept. 2000, and replaced by Ord. #16-1060, July 2016)

4-207. Funding the program plan. Sufficient funds for administering and staffing the program plan pursuant to this ordinance shall be made available as authorized by the City of Red Bank in the annual budget process. (as added by Ord. #00-824, § 1, Sept. 2000, and replaced by Ord. #16-1060, July 2016)

4-208. Plan adopted. The City hereby adopts the plan of operation for the Occupational Safety and Health Program Plan for the employees of the City Of Red Bank, attached hereto as Exhibit A,[1] the official copy of which, for codification purposes, is of record in the offices of the city recorder, as the Occupational Safety and Health Standards plan for the employees of the City of Red Bank. (as added by Ord. #16-1060, July 2016)

[1]The attachment to Ordinance #16-1060 (July 2016) is of record in the office of the recorder.

CHAPTER 3

COMPREHENSIVE TRAVEL POLICY

SECTION

4-301. Introduction.
4-302. Purpose.
4-303. Enforcement.
4-304. Travel authorization.
4-305. Official station.
4-306. Reimbursement procedures.
4-307. City charge card.
4-308. Travel advances.
4-309. Honorariums.
4-310. Air travel.
4-311. Taxi fares - airport transportation.
4-312. City owned vehicles - rental cars.
4-313. Personally owned vehicle.
4-314. Mileage calculation.
4-315. Parking - tolls.
4-316. Promotional materials and airline baggage fees.
4-317. Lodging.
4-318. Per diem rates for meals and incidentals.
4-319. Extended travel.
4-320. Telecommunication costs.
4-321. Exceptions.

4-301. Introduction. It is the intent of this policy that employees not suffer cost as a result of travel incurred to carry out assigned duties. Employees shall be reimbursed for such expenses subject to the limitations provided in this policy and the accompanying reimbursement rate schedule.

When traveling City of Red Bank employees should be as fiscally conservative as circumstances permit. The lower cost should be selected whenever practical. Reimbursement for travel will be based upon the most direct or expeditious route possible. Employees traveling by an indirect route must assume any extra expenses incurred. It is the responsibility of the employee to be familiar with and adhere to the established travel policy. Deliberate disregard of these regulations while traveling on city business or filing of an intentionally misleading or fraudulent travel claim, is grounds for immediate disciplinary action including termination of employment.

The city manager will establish and maintain the maximum rates of reimbursement. (1975 Code, § 1-1501, as replaced by Ord. #13-986, May 2013)

4-302. Purpose. The purpose of this policy and the referenced regulations is to ensure that the City of Red Bank is in compliance with Public Acts 1993, ch. 433. This act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this policy is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (1975 Code, § 1-1502, as replaced by Ord. #13-986, May 2013)

4-303. Enforcement. The city manager or his/her designee shall be responsible for the enforcement of these travel regulations. (1975 Code, § 1-1503, as replaced by Ord. #13-986, May 2013)

4-304. Travel authorization. Travel may not be undertaken unless it is authorized in advance by the city manager. Approved city travel is the basis for reimbursement in accordance with these provisions. The employee is considered to be on official travel status and eligible for reimbursement, at the time of departure from his/her official station or residence, whichever is applicable.

The department head must review and recommend all travel requests for their employee traveling on city business to the city manager. The department head should consider all costs including meeting expenses including the reasonableness of registration fees for conferences and seminars, etc. The department head is responsible for determining the most cost effective means of meeting the city's business objective and should first consider the use of video conferencing, webinars, and other electronic means of meeting attendance in lieu of travel.

The city manager shall approve travel by an elected governing official or person appointed to an official board or commission of the City of Red Bank. Such travel and reimbursement shall be conducted and reimbursed in accordance with these travel regulations.

Approval for both in-state and out-of-state travel is processed through the finance department workflow. Once recommended by the department head the request for travel authorization will be routed to the finance department for budgetary review and then submitted to the city manager for approval.

During periods of budgetary stress, all travel requests may be suspended or a change in the approval process may be made as circumstances require. The city manager retains the authority to change the approval process from time to time as necessity requires.

If an employee travels into another state and back in the same day and such travel is less than fifty (50) miles one way, such travel will be considered

routine and not require approval as out-of-state travel and no reimbursement will be made. (1975 Code, § 1-1504, as replaced by Ord. #13-986, May 2013)

4-305. Official station. The official station is the location from which the employee performs the major portion of his/her assigned duties. The work station closest to the employee's residence should be designated as the official station for employees with multiple work stations. (1975 Code, § 1-1505, as replaced by Ord. #13-986, May 2013)

4-306. Reimbursement procedures. Submission of an expense report and a claim for reimbursement by an employee initiates the reimbursement process. Travel claims must include the attached paper version of the request for travel authorization, the travel reimbursement claim signed and dated by the employee, and all appropriate receipts.

Employees shall submit the travel claim for reimbursement to the department head as soon as possible following the completion of travel. Following the department head's review, the claim will be sent to the finance department for additional review and submitted to the city manager for final approval. Once the city manager has approved the claim for reimbursement it will be returned to the finance department for payment. All reviews should be conducted as rapidly as possible to ensure prompt payment to the employee. In accordance with Internal Revenue Service guidance (IRS Publication 463), reimbursement paid sixty (60) days after the date of travel may be considered as taxable income. (as added by Ord. #13-986, May 2013)

4-307. City charge card. Employees that travel on city business and utilize the city charge card for payment assume the liability for any charges made on this card during the time it is in his/her possession and while they are on travel status. Using the charge card for either inappropriate or unauthorized purchases (those purchases not specifically approved on the request for travel authorization) will result in immediate disciplinary action and may include termination of employment. (as added by Ord. #13-986, May 2013)

4-308. Travel advances. Travel advances are available only under extraordinary circumstances. Advances are subject to the approval of the city manager and will be allowed only if the employee can justify extraordinary circumstances that warrant an advance and the employee has provided the financial department with a payroll deduction authorization from which will allow the city to recover the advance from any salary owed the employee in the event of termination of employment or failure to submit an expense report.

The amount of the travel advance will be based on eighty percent (80%) of the total estimated cost of travel. Advances will not be issued for less than one hundred dollars ($100.00). Immediately upon return the employee must submit an expense report regardless of whether he/she owes advance monies

back to the city or is due additional reimbursement. (as added by Ord. #13-986, May 2013)

4-309. Honorariums. For those employees who receive honorariums for appearing at meetings while on official city business, the employee may, at his/her option, accept the honorarium as full payment for travel expenses including airfare, or choose to surrender the honorarium to the city, and be reimbursed in accordance with established travel policy. (as added by Ord. #13-986, May 2013)

4-310. Air travel. Employees may decide how they will make reservations for air travel; either through the finance department, directly with the airline, through an on-line booking service, or through any other option at the choice of the employee. Advantage of discount fares and advance booking should be taken whenever practical, and fares should not exceed the regular tourist or coach fares offered the general public for both domestic and international flights.

When making reservations a print-out of the booking and payment pages must accompany the employee's expense claim. The employee assumes the financial responsibility for any unused tickets. (as added by Ord. #13-986, May 2013)

4-311. Taxi fares - airport transportation. Reasonable taxi fares are allowed from airports. It is expected that shuttle bus service, light rail, subway, or business town car service will be used when available and practical. In traveling between hotels and other lodging and meeting or conference/seminar sites, reasonable taxi fares will be allowed. The original receipt for transportation services is required. (as added by Ord. #13-986, May 2013)

4-312. City owned vehicles - rental cars. Employees are encouraged to utilize city owned vehicles for travel when practical and follow guidance provided for the use of the vehicle and for payment of fuel, maintenance, and repairs. City owned vehicles must be used for official business only. Only City of Red Bank employees may operate a city vehicle and must possess a valid driver's license for the type of vehicle being operated. No passenger may be present unless they are a city employee and are on official business and under travel status.

In the event of a breakdown that necessitates an emergency repair occurs during travel, the employee shall contact the department head for instructions. In the event his/her department head cannot be reached, then the employee should contact the public works director. Reimbursement for such expenses will be made when necessary and must be accompanied by a proper receipt itemizing the services performed and a thorough explanation of why the repair was needed.

Car rental for out-of-state travel must be made through the finance department. Car rental should be used only when necessary, i.e., when other forms of transportation such as hotel shuttle service are judged to be too expensive or not available. Insurance charges for a car rental are not reimbursable costs. Charges for car rental and fuel receipts should be attached to the claim for reimbursement. (as added by Ord. #13-986, May 2013)

4-313. Personally owned vehicle. City manager authorization is required for the use of a personally owned vehicle for travel on official city business. Unnecessary expenses which result from the use of a vehicle for reasons of personal convenience will not be allowed.

Reimbursement for the use of personally owned vehicles will be at the standard mileage rate in effect at the time of travel. (as added by Ord. #13-986, May 2013)

4-314. Mileage calculation. Only mileage while on official city business may be claimed for reimbursement. The travel mileage will be calculated utilizing the point-to-point system as determined by *MapQuest*. Reasonable vicinity miles will be allowed. Vicinity mileage must be documented by the employee by providing the odometer reading at the beginning and ending of each travel day and submitted on the claim for reimbursement.

Procedures for calculating mileage are based on the fact that the city is prohibited from reimbursing employees for normal commuting mileage.

(1) If an employee begins or ends a trip at his/her official station, reimbursable mileage will be the mileage from the official station to the destination.

(2) If an employee begins or ends his/her trip at his/her residence without stopping at his/her official work station, reimbursable mileage will be the lesser of the mileage from the employee's residence to his/her destination or his/her official work station to the destination.

On weekends or city approved holidays, the employee may typically be reimbursed for actual mileage from his/her residence to the destination.

(3) If an employee travels between destinations without returning to his/her official station or his/her residence, reimbursable mileage is the actual mileage between those destinations.

(4) If travel is by air the employee will be reimbursed for the round trip mileage from their residence to the airport if they drive a personally owned vehicle to the airport. (as added by Ord. #13-986, May 2013)

4-315. Parking - tolls. Charges for routine on-street or garage parking while on travel status will be reimbursed. Receipts for on-street or garage parking are required only if the charge exceeds the allowance stated in the rate schedule in effect at the time of travel. Receipts are required if the amount exceeds the allowance stated in the rate schedule.

Long term airport parking is reimbursed at the standard rate offered by the airport's long-term or economy parking facility. The employee must provide the receipt for long-term airport parking to be reimbursed. Valet parking at a hotel is not allowable.

Reasonable tolls and ferry fees are allowable with the appropriate receipts. (as added by Ord. #13-986, May 2013)

4-316. Promotional materials and airline baggage fees. Fees for handling of promotional materials or equipment will be allowed up to the maximum indicated in the rate schedule in effect at the time of travel. Airline baggage fees for up to two (2) bags will be reimbursed. (as added by Ord. #13-986, May 2013)

4-317. Lodging. The employee will be reimbursed for actual lodging costs plus tax incurred up to the applicable maximum amounts on the reimbursement rate schedule. Lodging receipts are required and must itemize all room charges and taxes by date.

If a convention rate exceeds the maximum reimbursement rate and is documented by a convention brochure or registration form, a higher reimbursement rate will be allowed if approved in advance by the city manager.

Miscellaneous lodging expenses such as energy or utility surcharges are fully reimbursable and should be added to the lodging cost, in manner similar to local hotel or sales taxes.

The maximum rates for in-state travel are the same as those shown on the City of Red Bank Standard Reimbursement Rate Schedule maintained by the finance department. The rate schedule contains standard reimbursement rates for lodging and meals and incidentals (M&I). Most destinations for in-state travel fall within the list.

The maximum rates for out-of-state travel are the same as those maintained by the U.S. General Services Administration for federal employees within the continental United States (CONUS). The CONUS list, available on the general services administration website located at www.gsa.gov/perdiem, contains standard reimbursement rates for lodging and meals and incidentals (M&I) along with several pages of exceptions. Most destinations for out-of-state travel fall within the list of exceptions.

It is not mandatory for employees to share a room while on travel status. However, in the event of double occupancy for city employees on official travel, both employees will attach an explanation to his/her travel claim detailing the date and other employee(s) with whom the room was shared. For example if two (2) employees traveled together and shared lodging, the lodging may be claimed by one (1) employee if he/she incurred the cost, or one-half (1/2) the double occupancy charges may be allowable for each employee. (as added by Ord. #13-986, May 2013)

4-318. Per diem rates for meals and incidentals. The maximum per diem rates include a fixed allowance for meals and incidental expenses (M&I). The M&I rate, or fraction thereof, is payable to the traveler without itemization of expenses or receipts. Incidentals are intended to include miscellaneous costs associated with travel such as tips for baggage handling, telephone calls to home, etc. Reimbursement is made only when overnight travel is required. Generally, the applicable maximum per diem rate for each calendar day of travel shall be determined by the location of lodging for the traveler.

The per diem rates for meals and incidentals are established on the standard reimbursable rate schedule. The M&I rate for out-of-state travel is the same as those for federal employees, and are available on the general services administration's website. As with lodging, there is a standard rate for the continental United States (CONUS), and a list of exceptions. Please note that these rates may change effective October 1 of each year. The employee will be reimbursed for the rate at the time of travel.

Reimbursement for meals and incidentals for the day of departure shall be three-fourths of the appropriate M&I rate (either the in-state or CONUS rate for out-of state travel) at the rate prescribed for the lodging location.

Reimbursement for meals and incidentals for the day of return shall be three-fourths (3/4) of the appropriate M&I rate (either the in-state of CONUS rate for out-of-state travel) at the rate applicable to the preceding day.

Per Diem Rates -- Three-Fourths Calculations

$46	$34.50
$51	$38.25
$56	$42.00
$61	$45.75
$66	$49.50
$71	$53.25

Reimbursement for a single meal (or meals) for employees on one (1) day travel status with no overnight stay is not permitted.

While on travel status if a single full meal is provided as part of a sponsored training session or conference or included in a conference fee, the employee should deduct the cost of the meal(s) from the per diem for that day using the schedule provided below. This also applies to the day of departure or return.

In those instances where all meals are provided as part of a sponsored training or conference or included in a conference or seminar fee, only the incidental rate should be claimed.

In-State and Out-of-State
Meals & Incidentals -- Allocated by Meal

Per Diem	$46	$51	$56	$61	$66	$71
Breakfast	$7	$8	$9	$10	$11	$12
Lunch	$11	$12	$13	$15	$16	$18
Dinner	$23	$26	$29	$31	$34	$36
Incidentals	$5	$5	$5	$5	$5	$5

(as added by Ord. #13-986, May 2013)

4-319. Extended travel. Extended travel status applies to an employee on continuous travel for a period of more than two (2) weeks. Employees on extended travel status working in-state are authorized to travel to and from his/her home station once a week at the approved mileage rate at the time of travel if utilizing their personal vehicle. Those employees on extended travel status working out-of-state are authorized to take one trip to their home station by common carrier once every two (2) weeks or the employee may be reimbursed at the approved mileage rate at the time of travel if utilizing their personal vehicle. The employee may also be reimbursed for local transportation to conduct city business if utilizing their personal vehicle.

If the employee is traveling in a city owned vehicle then gas will be purchased by the city and neither a mileage reimbursement nor local transportation cost will be provided to the employee. (as added by Ord. #13-986, May 2013)

4-320. Telecommunication costs. Local telephone calls, fax charges, and long distance calls for city business are eligible to be reimbursed. Employees must provide a statement furnishing the date, name, and location called for long distance calls and fax charges. Hotel internet access charges may be reimbursed when approved in advance and when it is anticipated the employee will be working from a hotel room on official city business. (as added by Ord. #13-986, May 2013)

4-321. Exceptions. The city manager shall have the authority to grant exceptions from any part or all these rules and regulations when deemed appropriate for the employee or group of employees on official state travel.

Approved exceptions shall be maintained in a central file maintained by the finance department.

These City of Red Bank travel regulations are effective when signed, supersede and rescind all previous travel regulations and shall remain in effect until subsequently modified or rescinded. (as added by Ord. #13-986, May 2013)

CHAPTER 4

SOCIAL MEDIA POLICY

SECTION

4-401. Applicability.
4-402. City owned or created social media.
4-403. Non-city social media sites.

4-401. Applicability. (1) This policy applies to every employee, whether part-time or full-time, currently employed by the city in any capacity who posts any material whether written, audio, video, or otherwise on any website, blog or any other medium accessible via the global internet.

(2) For purposes of this policy social media is content created by individuals using accessible and scalable technologies through the global internet. Examples include, but are not limited to: Facebook, blogs, MySpace, RSS, YouTube, Second Life, Twitter, LinkedIn, Google Wave, Google+, etc. (as added by Ord. #13-988, May 2013)

4-402. City owned or created social media. (1) The city maintains an online presence. An employee may not characterize him or herself as representing the city, directly or indirectly, in any online posting unless pursuant to a written policy of the city and at the direction of the city manager.

(2) All city social media sites directly or indirectly representing to be an official statement of the city must be created pursuant to this policy and be approved by the city manager or his/her designee.

(3) The city's primary and predominant internet presence shall remain www.redbanktn.gov and no other website, blog, or social media site shall characterize itself as such.

(4) The city manager or his/her designee is responsible for the content and upkeep of any social media site(s) created pursuant to this policy.

(5) Whenever possible a social media site shall link or otherwise refer visitors to the city's main website.

(6) In addition to this policy all social media sites shall comply with any and every other applicable city policy including but not limited to:

(a) Open records policy.
(b) Internet/email use policy.
(c) IT security policy.
(d) Ethics policy.
(e) Records retention policy.

(7) A social media site is subject to Tennessee's Public Records Act (Tennessee Code Annotated, § 10-7-101, *et seq*.) and Open Meetings Act (Tennessee Code Annotated, § 8-44-101, *et seq*.) and no social media site shall be used to circumvent or otherwise be in violation of these laws. All information

posted on a social media site shall be a public record and subject to public inspection at any time. All lawful public records requests for information contained on a social media site shall be fulfilled by the city manager or his/her designee and any employee whose assistance is necessitated. Every social media site shall contain a clear and conspicuous statement referencing the aforementioned state laws. All official postings on a social media site shall be preserved in accordance with the city's records retention schedule.

(8) A social media site shall also contain a clear and conspicuous statement that the purpose of the site is to serve as a mechanism for communication between the city and its constituents and that all postings are subject to review and deletion by the city. The following content is not allowed and will be immediately removed and may subject the poster to banishment from all city social media sites:

(a) Comments not topically related to the particular social medium article being commented upon;

(b) Comments in support of or opposition to political campaigns or ballot measures;

(c) Profane language or content;

(d) Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation;

(e) Sexual content or links to sexual content;

(f) Solicitations of commerce;

(g) Conduct or encouragement of illegal activity;

(h) Information that may tend to compromise the safety or security of the public or public systems; or,

(i) Content that violates a legal ownership interest of any other party.

(9) The city will approach the use of social media tools, software, hardware, and applications in a consistent, citywide manner. All new tools, software, hardware and applications must be approved by the city manager or his/her designee.

(10) Administration of city social media sites. The city manager or his/her designee will maintain a list of social media tools which are approved for use by city departments and staff.

The city manager or his/her designee will maintain a list of all city social media sites, including login and password information. Employees and officials will inform the city manager or any new social media sites or administrative changes to existing sites.

The city must be able to immediately edit or remove content from social media sites.

(11) For each social media tool approved for use by the city the following documentation will be developed and adopted:

(a) Operational and use guidelines;

(b) Standards and processes for managing accounts on social media sites;

(c) City and departmental branding standards;

(d) Enterprise-wide design standards;

(e) Standards for the administration of social media sites. (as added by Ord. #13-988, May 2013)

4-403. Non-city social media sites. (1) An employee may not characterize him or herself as representing the city, directly or indirectly, in any online posting unless pursuant to a written policy of the city or the direction of the city manager.

(2) The use of a city email address, job title, official city name, seal or logo shall be deemed an attempt to represent the city in an official capacity. Other communications leading an average viewer to conclude that a posting was made in an official capacity shall also be deemed an attempt to represent the city in an official capacity.

(3) Departments have the option of allowing employees to participate in existing social networking sites as part of their job duties with the written permission of the city manager. The city manager may allow or disallow employee participation in any social media activities.

(4) Any postings on a non-city social media site made in an official capacity shall be subject to the Tennessee Open Records Act and the Tennessee Open Meetings Act.

(5) An employee or official posting on a social media site shall take reasonable care not to disclose any confidential information in any posting.

(6) When posting in a non-official capacity an employee or official shall take reasonable care not to identify themselves as an official or employee of the city. When the identity of an employee or official posting on a non-city social media site is apparent, the employee or official shall clearly state that he or she is posing in a private capacity. (as added by Ord. #13-988, May 2013)

CHAPTER 5

INTERNET AND ELECTRONIC MAIL POLICY

SECTION

4-501. Policy.
4-502. Procedures.

4-501. Policy. It is the policy of the City of Red Bank that all employees having global internet access and electronic-mail (email) privileges shall use such access only for official work in full compliance with this policy and the policies of the city. Each user must be aware of the risks related to internet access and email which cannot be eliminated but may only be managed through the exercise of prudence and caution. (as added by Ord. #13-988, May 2013)

4-502. Procedures. (1) Use of the internet/email. Employees must be individually authorized to use the internet and/or email before doing so during working hours or while using any city equipment. No employee will be so authorized by the city until the employee has signed the internet use form.[1]

(2) No email messages sent or received on city computers is personal or private; each is the property of the City of Red Bank. Email messages can be copied, distributed, discovered in litigation, and used in disciplinary proceedings even if deleted by the recipient or originator. Users have no expectation of privacy as to any email message at any time.

(3) No internet site visited or viewed on city computers is personal or private; the viewing history for each computer is recorded and is property of the City of Red Bank. Web sites viewed can be discovered in litigation and used in disciplinary proceedings even if deleted. Users have no expectation of privacy as to internet use at any time. Visiting a sexually explicit site of any nature will result in immediate termination unless such viewing meets the following exception.

Law enforcement officers may in the course of his/her duties, with prior authorization from the chief of police and the city manager, view or copy the content of a sexually explicit site utilizing a city computer for the purpose of obtaining evidence in the investigation of a crime.

(4) Principles of acceptable internet and computer system use. (a) Use must be for legitimate work-related purposes only.

(b) Users shall respect the legal protections afforded by copyright and license laws for programs and data.

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[1]The internet use form is on file in the office of the city recorder.

(c) Users shall identify themselves as employees of their department and the city when sending any email message via the internet.

(5) Unacceptable use of the internet, email, and the city's computer system. (a) Users shall respect the integrity of the city's computing system and shall not use it for unacceptable purposes or in an unacceptable manner as described below. It is unacceptable for a user to use, submit, publish, display, or transmit on the internet, or any part of the city's computer system, any information which;

(i) Uses the system for any illegal purpose;

(ii) Contains defamatory, false, inaccurate, abusive, obscene, pornographic, profane, sexually oriented, threatening, racially offensive, or otherwise biased, discriminatory, or illegal material, whether in the form of a joke or otherwise;

(iii) Violates or infringes on the rights of any other person, including the right to privacy;

(iv) Modify files or data belonging to other users without explicit permission to do so; or,

(v) Uses the computer belonging to another without explicit permission to do so.

(b) No user, other than the city manager or the various department directors, with the city managers prior approval, shall have authority to subscribe to any service for which a fee is charged.

(c) Users shall not use or develop programs that harass other users or infiltrate a computer or computing system or which seek to alter or damage the software components of a computer or computing system.

(6) Personal use. The prohibitions in this policy shall also not be construed to prohibit infrequent and brief use of the system for incidental personal matters by an employee during a lunch or other personal break time. This is similar to an employee's limited ability to make a personal telephone call on personal time. For example, an employee may spend a minute or two looking at the weather radar online provided, however, in no event shall any such limited personal use include any activity otherwise prohibited by this policy, e.g., visiting a sexually explicit site.

(7) No right of privacy - monitoring. (a) Pursuant to the Electronic Communications Act of 1986, 18 U.S.C. 2510 et seq., notice is hereby given that there are no facilities provided by the city and its system for sending or receiving private or confidential electronic communications.

(b) Electronic mail, whether sent via the internet or internally, may be a public record subject to public disclosure under the Tennessee Public Records Law and may be inspected by the public.

(c) All computer use, whether internet use or electronic mail will be continually monitored by either the city manager or his/her designee. (as added by Ord. #13-988, May 2013)

CHAPTER 6

TITLE VI COMPLIANCE POLICY

SECTION
4-601. Policy adopted by reference.

4-601. Policy adopted by reference. It is the policy of the City of Red Bank 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. The Title VI Compliance Manual for the City of Red Bank is hereby adopted in its entirety by reference.[1] (as added by Ord. #13-992, Aug. 2013)

[1]The Title VI Compliance Manual is on file in the office of the recorder.

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER
1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES GENERALLY.
4. WHOLESALE BEER TAX.
5. RENTAL TAX ON TELEPHONE AND TELEGRAPH POLES.
6. PROPERTY TAX INCENTIVES FOR ECONOMIC DEVELOPMENT.
7. HOTEL-MOTEL TAX.

CHAPTER 1

MISCELLANEOUS

SECTION
5-101. Official depository for, and disbursement of city funds.
5-102. Fiscal year.
5-103. Budget amendments.
5-104. Payment by credit card or debit card.

5-101. Official depository[2] for, and disbursement of city funds. The Red Bank Branch of the Hamilton National Bank of Chattanooga, Tennessee, is hereby designated as the depository of all funds of the City of Red Bank, provided, however, that said bank shall furnish adequate security to protect the interest of the city, either by collateral in the form of bonds of the city or state in an amount ten per cent (10%) in excess of the deposits, or by a bond in a sum ten per cent (10%) in excess of the deposits with surety to be approved by the board of commissioners.

All checks drawn upon this account shall be signed by the treasurer and countersigned by the mayor. Any bank or branch bank located in the City of Red Bank may be an additional depository of the funds of the City of Red Bank and the funds of the City of Red Bank shall be deposited in the various banks on an equitable basis. (1975 Code, § 6-601)

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[1]Charter reference
Finance and taxation: title 6, chapter 22.

[2]Charter reference
Tennessee Code Annotated, § 6-2221 prescribes depositories for city funds.

5-102. Fiscal year. The fiscal year of the city is hereby fixed and determined to commence on the first day of July of each year and to end on the following June 30th.[1] (1975 Code, § 6-602)

5-103. Budget amendments. (1) Prior to the approval of any amendments to the annual budget that would increase appropriations for the expenditure of city funds, the city council shall approve a resolution that identifies a corresponding source of funds to cover the proposed additional expenditure, and/or identifies a corresponding reduction in expenditure to compensate for the proposed additional expenditure.

(2) Nothing in this section shall be construed or interpreted as an expansion or limitation of any power or authority granted to the City of Red Bank by the State of Tennessee. (1975 Code, § 6-604)

5-104. Payment by credit card or debit card. (1) It is lawful for the city to receive payment by credit card or debit card for any public taxes, licenses, fines, fees, assessments, or other monies collected by such municipal entity or officer.

(2) As used in this subsection, unless the context otherwise requires:

(a) "Credit card" has the same meaning as defined in Tennessee Code Annotated, § 47-22-101.

(b) "Debit card" has the same meaning as defined in Tennessee Code Annotated, § 39-14-102(3).

(3) Any city officer or official collecting payment by credit card or debit card pursuant to the provisions of this subsection shall set and collect a processing fee in an amount that is equal to the amount paid the third party processor for processing the payment. However, the processing fee shall not be set in an amount that exceeds five percent (5%) of the amount of the payment collected by credit card or debit card company or entity.

(4) If a payment by credit card is not honored by the credit card company issuing the card, or if a payment by a debit card is not honored by the entity on which the funds are drawn, the city officer or official may collect a service charge from the person who owes the tax, fee, fine, penalty, interest or other charge, for processing the transaction. The amount of the service charge shall be the same amount as the fee charged for the collection of a check drawn on an account with insufficient funds. Provided, however, this service charge shall not apply and shall not be collected if an electronic device is used to conduct the transaction, the card and card holder are present, and the officer

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[1]Charter reference

Tennessee Code Annotated, § 6-2222 provides that the fiscal year of the city shall begin on July 1 unless otherwise provided by ordinance.

learns of the declination of the credit card or debit card at the time the transaction is processed.

(5) Processing fees or service charges collected under this subsection shall be deposited into the city's general fund, and thereafter, if applicable, allocated and transferred to the appropriate enterprise fund(s).

(6) With respect to every such transaction or receipt of payment, written notice shall simultaneously issue to the person owing the taxes, fine, fee, assessment or other money either the percentage of the processing fee for use of a credit card or debit card or the actual fee imposed for the use of a credit card or debit card.

(7) In no event shall the use of the credit card or debit card result in the city collecting less than is otherwise required or permitted by law for the payment of the taxes, licenses, fees, fines, assessments, or other monies due and payable.

(a) The city manager shall promulgate, and may amend from time to time, policies and procedures necessary to implement this section. (as added by Ord. #01-835, Feb. 2001)

CHAPTER 2

REAL PROPERTY TAXES[1]

SECTION

5-201. When due and payable.
5-202. When delinquent--penalty and interest.
5-203. County trustee to collect.

5-201. When due and payable.[2] Taxes levied by the municipality against real property shall become due and payable annually on the first Monday in October of the year for which levied. (1975 Code, § 6-101)

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[1]State law references

Tennessee Code Annotated, §§ 67-1-701, 67-1-702 and 67-1-801, read together, permit a municipality to collect its own property taxes if its charter authorizes it to do so, or to turn over the collection of its property taxes to the county trustee. Apparently, under those same provisions, if a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of 1/2 of 1% and interest of 1% shall be added on the first day of March, following the tax due date and on the first day each succeeding month.

[2]Charter references

Tennessee Code Annotated, § 6-2211 sets the due date of November 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-2214 provides that a different tax due date may be set by ordinance (by unanimous vote of the board of commissioners.)

5-202. When delinquent--penalty and interest.[1] 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.[2] (1975 Code, § 6-102)

5-203. County trustee to collect. The county trustee of Hamilton County shall act as the collector of all city property taxes. (1975 Code, § 6-103)

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[1]Charter reference

Tennessee Code Annotated, § 6-2213 sets the tax delinquency of December 1 of the year for which the taxes are assessed, but Tennessee Code Annotated, § 6-2214 provides that a different delinquent date may be set by ordinance (by unanimous vote of the board of commissioners).

[2]State law reference

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

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

CHAPTER 3

PRIVILEGE TAXES GENERALLY

SECTION

5-301. Tax levied.
5-302. License required.
5-303. Litigation tax levied.
5-304. Collection by city recorder--liability.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the municipality at the rates and in the manner prescribed by the act. (1975 Code, § 6-201)

5-302. License required. No person shall exercise any such privilege within the municipality without a currently effective privilege license, which shall be issued by the city manager to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1975 Code, § 6-202)

5-303. Litigation tax levied. In accordance with the authority of Tennessee Code Annotated, § 67-4-601et seq., there is hereby levied a privilege tax on litigation in the city court for the City of Red Bank, Tennessee, in the amount of fourteen and 75/100 dollars ($14.75), which tax is to be collected upon all cases before the city court by the city court clerk, the same to be collected as any other litigation tax and/or court cost authorized by ordinance, by the Red Bank Municipal Code and/or by the Tennessee Code Annotated. (1975 Code, § 6-203, as replaced by Ord. #00-815, § 1, June 2000)

5-304. Collection by city recorder--liability. The city recorder shall collect litigation tax from all defendants in any criminal case instituted in the Red Bank City Court upon a finding of guilt, a plea of guilty, or a submission to a fine by the city court judge, in the same manner as the recorder collects the state litigation tax. Privilege taxes imposed by this chapter which the recorder shall fail to collect and account for, shall be a debt of the recorder, for which he, and his official bondsman, shall be liable to the city. (1975 Code, § 6-204)

CHAPTER 4

WHOLESALE BEER TAX

SECTION
5-401. To be collected.

5-401. To be collected. The city treasurer is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.[1] (1975 Code, § 6-301)

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

CHAPTER 5

RENTAL TAX ON TELEPHONE AND TELEGRAPH POLES

SECTION

5-501. Levy, due date, delinquency, collection.
5-502. Report required.

5-501. Levy, due date, delinquency, collection. There is hereby levied on each and every telephone and telegraph company doing business within the City of Red Bank, Tennessee, or maintaining poles, lines, or other assets therein, an annual rental tax of twenty-five cents (25¢) on each telephone and telegraph pole standing on the streets, or along the streets of this city. This tax shall be due on the first day of July 1956, and on the first day of each year thereafter. This tax shall become delinquent sixty (60) days after the due date specified herein, and may at anytime thereafter be enforced and collected in any manner authorized by law for the collection of delinquent taxes. (1975 Code, § 6-401)

5-502. Report required. Each telephone or telegraph company owing a tax to the city hereunder shall submit, with its tax payment, a detailed list of all telephone or telegraph poles maintained or standing within the corporate limits of the City of Red Bank, Tennessee, which report shall show the name of each street in the city along which said company maintains or has erected telephone or telegraph poles, and the number of poles along said street. In the event a tax-paying company fails to submit a report as required herein, the city manager is authorized to estimate the number of poles standing within the corporate limits based upon an actual count of the poles standing within any given block, area, or lineal street distance within the city. After making such estimate, the city manager shall submit a bill to the tax-paying company for any deficiency between their actual tax payment, and the payment due based upon his estimate made as provided herein, and, in the event the deficiency is not paid by the company within sixty (60) days, or a detailed itemized list as required herein submitted, the city manager shall proceed to declare said tax delinquent. (1975 Code, § 6-402)

CHAPTER 6

PROPERTY TAX INCENTIVES FOR ECONOMIC DEVELOPMENT

SECTION

5-601. Property tax incentives for economic development.

5-601. Property tax incentives for economic development. (1) The City of Red Bank declares it to be the policy of the city to lawfully provide for property tax incentives in order to foster and encourage economic development within the city limits of the City of Red Bank, Tennessee.

(2) The Hamilton County Industrial Board is nominated and designated pursuant to Tennessee Code Annotated, § 7-53-305(b) as the public entity having authority to provide for and to hold title to properties as relates to payment in lieu of ad valorem taxes if and only if upon a finding that such payments are deemed to be in furtherance of the Hamilton County Industrial Development Board's public purposes, i.e. the encouragement of industrial and commercial business development.

(3) The City of Red Bank shall designate an entity to be vested with delegated provisional authority to negotiate for and on behalf of the City of Red Bank with applicants of and with respect to the economic development tax incentive hereby authorized and provided. Such designee shall be an entity domiciled in Hamilton County and recognized by the Hamilton County Industrial Board as having the necessary experience and expertise to negotiate the encouragement of industrial and commercial business development.

(4) Pursuant to the authority of Tennessee Code Annotated, § 7-53-305(b), the city commission retains unto itself the authority to accept or reject any agreements provisionally negotiated by its designee and/or as proposed by the Hamilton County Industrial Development Board.

(5) The city will devise a uniform standard by which incentive applications are to be evaluated. The city may authorize their designee to administer such uniform standard as part of the designee's duties.

(6) The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter.

(7) This chapter shall take effect from and after the date of its final passage, the health, safety and welfare of the citizens of the City of Red Bank requiring it. (as added by Ord. #11-964, Aug. 2011)

CHAPTER 7

HOTEL-MOTEL TAX

SECTION

5-701. Definitions.
5-702. Permit required.
5-703. Fee.
5-704. Not transferable.
5-705. Duration.
5-706. Register required; availability for inspection.
5-707. Rooms to be numbered.
5-708. Privilege tax levied; use.
5-709. Payment of the tax.
5-710. Reserved.
5-711. Interest and penalty for late payment.
5-712. Records requirement.
5-713. Collection of tax.

5-701. Definitions. As used in this chapter:

(1) "Consideration" means the consideration charged, whether or not received, for the occupancy in a hotel or motel valued in money, goods, labor or otherwise, including all receipts, cash, credits, property and services of any kind or nature without any deduction therefrom whatsoever;

(2) "Hotel" means any structure or space, or any portion thereof, which is occupied or intended or designed for occupancy by travelers for temporary lodging or sleeping purposes, and includes any hotel or motel in which rooms, lodgings, or accommodations are furnished to travelers for a consideration;

(3) "Occupancy" means the use or possession, or the right to use or possession of any room, lodgings or accommodations in any hotel;

(4) "Operator" means the person operating the hotel whether as owner, lessee, or otherwise;

(5) "Persons" means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit; and

(6) "Traveler" means any person who exercises occupancy or is entitled to occupancy of any rooms, lodgings, or accommodations in a hotel.

(7) "Exempt transactions" means an operator may grant an exemption from the tax to employees of the federal government and its agencies or the State of Tennessee and its political subdivisions when the hotel room charges are either billed directly to the applicable government, are paid using a government credit card, or are paid with cash, a personal check or personal credit card. In situations when the federal or State of Tennessee employee

requests exemption from the occupancy tax and pays with either cash, a personal check, or a personal credit card, an operator must obtain both a copy of the employee's government identification card and a signed dated statement from the federal or State of Tennessee government entity documenting that the employee is traveling on government business during the date of occupancy and has been or will be reimbursed by the government for the cost of the occupancy. A deduction may be made on the designated space of the return for the consideration received from employees of the federal government and its agencies or the State of Tennessee and its political subdivisions as herein otherwise permitted. (as added by Ord. #14-1016, Jan. 2015)

5-702. Permit required. No person will conduct, keep, manage, operate or cause to be conducted, kept, managed or operated, either as owner, lessor, agent or attorney, any hotel in the city without having obtained a permit from the city manager or his/her designee to do so. (as added by Ord. #14-1016, Jan. 2015)

5-703. Fee. The fee for each hotel permit will be fifty dollars ($50.00) per annum. (as added by Ord. #14-1016, Jan. 2015)

5-704. Not transferable. No permit issued under this chapter shall be transferred or assigned. (as added by Ord. #14-1016, Jan. 2015)

5-705. Duration. Hotel permits shall be issued annually and shall expire on the last day of December of each year. The fee for permits expiring in the year issued shall not be pro-rated. (as added by Ord. #14-1016, Jan. 2015)

5-706. Register required; availability for inspection. Every person to whom a permit is issued under this chapter shall at all times keep a standard hotel register in which shall be inscribed the names of all guests renting or occupying rooms in his hotel. Such register shall be signed in every case by the persons renting a room or by someone under his/her direction, and after registration is made and the name of the guest is inscribed as herein provided, the manager shall write the number of the room which guest is to occupy, together with the time such room is rented, before such person is permitted to occupy such room. The register shall be open to inspection at all times to the city manager or his designee. (as added by Ord. #14-1016, Jan. 2015)

5-707. Rooms to be numbered. Each sleeping room and apartment in every hotel in the city shall be numbered in a plain and conspicuous manner. The number of each room shall be placed on the outside of the door of such room, and no two (2) doors shall bear the same number. (as added by Ord. #14-1016, Jan. 2015)

5-708. Privilege tax levied; use. (1) Pursuant to the provisions of Tennessee Code Annotated, §§ 67-4-1401 through 67-4-1425, there is hereby levied a privilege of occupancy in any hotel of each traveler. From and after the effective date of this chapter the rate of the levy shall be four percent (4%) of the consideration charged by the operator. This privilege tax shall be collected pursuant to and subject to the provisions of these statutory provisions. The city manager shall be designated as the authorized collector to administer and enforce this chapter and these statutory provisions.

(2) The proceeds received from this tax shall be available for the city's general fund. Proceeds of this tax may not be used to provide a subsidy in any form to any hotel or motel. (as added by Ord. #14-1016, Jan. 2015)

5-709. Payment of the tax. Payment of the tax by the hotel operator to the city shall be no later than the twentieth (20th) day of each month for the preceding month on a form prepared and furnished by the city. (as added by Ord. #14-1016, Jan. 2015)

5-710. Reserved. (as added by Ord. #14-1016, Jan. 2015)

5-711. Interest and penalty for late payment. The hotel operator is responsible for paying interest on delinquent taxes, at the rate of twelve percent (12%) per annum, plus a penalty of one percent (1%) per month for each month such taxes remain delinquent. (as added by Ord. #14-1016, Jan. 2015)

5-712. Records requirement. The hotel operator must keep all records necessary to determine the amount of consideration paid and the amount of the tax hereby imposed for three (3) years, with the right of inspection by the city at all reasonable times. (as added by Ord. #14-1016, Jan. 2015)

5-713. Collection of tax. The city may designate and contract with an agent to serve as intermediary for collection of the tax and/or all inspection functions herein authorized. (as added by Ord. #14-1016, Jan. 2015)

TITLE 6

LAW ENFORCEMENT

CHAPTER
1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1

POLICE AND ARREST[1]

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.
6-108. LESO Program, implementation.

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. (1975 Code, § 1-301)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the municipality. They shall patrol the municipality and shall assist the city court during the trail of cases. Policemen shall also promptly serve any legal process issued by the city court. (1975 Code, § 1-302)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the city manager shall prescribe 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. (1975 Code, § 1-303)

6-104. When policemen to make arrests[1]. 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:

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[1]Municipal code reference
Traffic citations, etc.: title 15, chapter 7.

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1975 Code, § 1-304)

6-105. Policemen may require assistance in making arrests. It shall be unlawful for any male person to willfully refuse to aid a policeman in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary to effect the arrest. (1975 Code, § 1-305)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when a person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the required bond, he shall be confined. (1975 Code, § 1-306)

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. (1975 Code, § 1-307)

6-108. LESO Program, implementation. (1) The city commission hereby approves this city's participation in the State of Tennessee sponsored LESO Program such that the city may be eligible to receive military grade personal property, assets and equipment made available to various local law enforcement agencies such as the Red Bank Police Department by the United States Department of Defense and as authorized by the provisions of title 10 of the United States Code, section 2576(A) et seq. and as further authorized and implemented by the Governor of the State of Tennessee, acting by and through the Tennessee Department of General Services.

(2) (a) The chief of police is authorized to execute for and on behalf of the city, following final approval of the form of contract by the city manager and city attorney, the authorizing and implementing contract and agreement with respect to the city's participation in the said "LESO Program" and entitled State plan of operations between the State of Tennessee and the City of Red Bank, Tennessee.

(b) The city manager and chief of police are authorized and directed to return an executed copy of the said state plan of operations between the State of Tennessee and the City of Red Bank, Tennessee to the department of general services and to perform any and all additional administrative tasks necessary in order to implement and carry out its broadly stated purposes.

(3) (a) Notwithstanding any other provisions set forth as contained within the terms, provisions and conditions of said state plan of operations between the State of Tennessee and the City of Red Bank, Tennessee, the chief of police shall not make any applications or requests for transfers of any personal property, equipment, commodities, vehicles, assets, expendables (such as ammunition) without the written approval of the city commission, by resolution duly adopted, and preceded by a written request prepared by the chief of police and submitted to the city commission through the city manager explaining the necessity and requesting authority and approval from the city commission to make further application to the State of Tennessee/Department of Defense and providing a detailed rationale for such requested acquisition(s) together with a projected budget /cost benefit analysis with respect to acquisition, usage, oversight, maintenance and anticipated length of service of any and all such assets. In forwarding same to the city commission, the city manager shall recommend in writing, whether to approve or reject same and shall give explanation for such recommendations.

(b) No application shall be made to the department of general services for any manned or unmanned aircraft, fixed or rotary winged aircraft, unmanned aerial vehicles, wheeled armored vehicles, wheeled vehicles, wheeled vehicles of any sort, armored vehicles of any sort, all-terrain vehicles utilizing any combination of wheels and/or tracks and/or treads, any specialized ammunition and whether or not over or under .50 caliber ammunition (except for standard issue arms and/or ammunition for previously authorized police department issued service weapons), and explosives or pyrotechnics of any kind or nature, all as defined in the state plan of operations between the State of Tennessee and the City of Red Bank as "controlled property," without express written approval, via duly adopted resolution of the city commission of the City of Red Bank, and only after written report of the city manager detailing budgetary and potential liability issues.

(4) No application shall be filed with the Tennessee Department of General Services, or any other entity under the LESO Program except upon express written approval of the city commission.

(5) The city manager and the chief of police shall jointly develop a written plan and policy to address all aspects of implementation of the hereinabove referenced LESO Program, to include but not be limited to the following provisions:

(a) The chief of police shall certify to the city commission, with copy to the city manager, coincident with the end of each fiscal year that the city and the police department are in compliance of all aspects of the state plan of operations between the State of Tennessee and the City of Red Bank authorized hereby and entered in and by and between the State of Tennessee and the City of Red Bank including but not limited to any and all requirements, rules, regulations and standards related to "controlled equipment" as defined in the state plan of operations, any and all inventory requirements as further specified and set forth in the state plan of operations, any and all reporting and accounting requirements to the department of general services or any other governmental entity, with respect to conducting a certified annual inventory and reporting all as is required by the state plan of operations. A program compliance review certifying compliance with all the terms and conditions of any state plan of operation, any and all records management, and all terms, conditions as set forth in the state plan of operations shall be tendered to the city manager who shall make same available to the city commission and shall be provided by the chief of police during the month of June of each year.

(b) The policy written, promulgated and filed by the city manager and chief of police shall be submitted to the city commission for review, modification, objection and/or approval prior to any application(s) for access to or possession of any of the military grade properties, commodities, equipment, vehicles, or any other assets from the state department of general services and/or indirectly from the Department of Defense/United States Government. (as added by Ord. #18-1126, Aug. 2018)

CHAPTER 2

WORKHOUSE

SECTION

6-201. County workhouse to be used.
6-202. Inmates to be worked.
6-203. Compensation of inmates.

6-201. County workhouse to be used. The Hamilton County workhouse is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1975 Code, § 1-401)

6-202. Inmates to be worked. All persons committed to the workhouse, to the extent that their physical condition shall permit, shall be required to perform such public work or labor as may be lawfully prescribed for the county prisoners. (1975 Code, § 1-402)

6-203. Compensation of inmates. Each workhouse inmate shall be allowed five dollars ($5.00) per day as credit toward payment of the fines assessed against him. (1975 Code, § 1-403)

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER
1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.

CHAPTER 1

FIRE DISTRICT

SECTION
7-101. Fire limits described.

7-101. Fire limits described. The corporate fire limits shall be and include the areas within the C-I Commercial, C-II Commercial, L-I Light Industry and Wholesale and M-I Industrial Zones, as shown on the "Zoning Maps of the City of Red Bank, Tennessee." (1975 Code, § 7-101)

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

CHAPTER 2

FIRE CODE[1]

SECTION

7-201. Fire code adopted.
7-202. Enforcement.
7-203. Definition of "municipality."
7-204. Gasoline trucks.
7-205. Variances.
7-206. Buildings over 3 floor levels or 35 feet high.
7-207. Violations.
7-208. Designation of members of fire department as inspectors.
7-209. Duties of the fire marshal.
7-210. Right of entry for inspection or investigation.
7-211. Inspections of hazardous manufacturing processes and storage, etc., of explosives and inflammables.
7-212. Inspections of places of assembly.
7-213. Inspections of buildings and premises.
7-214. Issuance of order to remedy dangerous condition.
7-215. Service of orders.
7-216. Powers of the fire marshal when order not complied with.
7-217. Investigation of causes for fires.
7-218. City attorney and police to assist in investigation.
7-219. Fire drills in schools.
7-220. Smoke detectors in residential rental units.
7-221. Penalty for violation.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, § 6-54-501, et seq., and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Code,[2] 2012 edition, is hereby adopted by the City of Red Bank as its fire code, specifically adopting Appendices B through J of the International Fire Code, 2012 edition, and by adding to Appendix D thereof the following: All fire access roads shall be at least 22 feet in width, with wider areas for hydrants and designated parking areas which shall be approved by the City. Fire access roads, 22 feet to 26 feet in width, shall be

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

[2]Copies of this code are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213-1206.

posted on both sides as a "fire lane," and is incorporated herein by reference and is included as a part of this code as though set out herein verbatim and is to be known as: "The Fire Prevention Code." Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 (1), a copy of the fire prevention code has been filed with the city manager, and is adopted and incorporated as fully as if set out at length and verbatim herein and shall be controlling within the corporate limits of the City of Red Bank, Tennessee. (1975 Code, § 7-201, as replaced by Ord. #97-739, June 1997, and Ord. #04-896, Dec. 2004, and amended by Ord. #11-958, March 2011, and Ord. #16-1079, Oct. 2016)

7-202. Enforcement of violation; civil penalty. The fire prevention code herein adopted by reference shall be enforced by the chief of the fire department and the fire marshal. They shall have the same powers as the state fire marshal.

In addition to abatement of any condition as provided by any of the sections of chapter 2 of title 7, inclusive, hereinabove or hereinafter set forth, failure to remedy any such condition after Notice, is declared to be in violation of such particular Ordinance or code section cited in the notice as to which the owners and/or occupants may be cited to city court or to appear before the city codes administrative hearing officer to answer for such violations. Each day of a continued violation after notice shall constitute a separate offense and for each day that said condition is unremedied, subject to the provisions of Tennessee Code Annotated, § 6-54-109, the offending owner and/or occupant may be fined, assessed the sum/civil penalty of up to five hundred dollars ($500.00) per day by the city judge or the city codes administrative hearing officer upon a finding of violation or of continued violation. The city court judge or the city codes administrative hearing officer have the authority and power to require the owner and/or occupant to abate any and all violations of any of the provisions of this chapter of title 7. Additionally, the city judge and/or administrative hearing officer shall, upon proper proof, add the amount of the enforcement costs, including attorney fees and abatement costs, incurred by the city to the amount of the fine/civil penalty to be paid by the owner and/or occupant of the offending premises. In addition, the city manager may file a municipal lien against the property found to be in violation to enforce the collection of the civil fine, civil penalty, enforcement costs, attorney fees, etc. (1975 Code, § 7-202, modified, as amended by Ord. #16-1070, Oct. 2016)

7-203. Definition of "municipality." Whenever the word "municipality" is used in the fire prevention code herein adopted, it shall be held to mean the City of Red Bank, Tennessee. (1975 Code, § 7-203)

7-204. Gasoline trucks. No person shall operate or park any gasoline tank truck within any commercial or residential area at any time except for the

purpose of and while actually engaged in the expeditious delivery of gasoline. (1975 Code, § 7-205)

7-205. Variances. The chief of the fire department may recommend to the governing body variances from the provisions of the fire prevention code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the governing body. (1975 Code, § 7-206)

7-206. Buildings over 3 floor levels or 35 feet high. (1) No building shall be constructed which is more than three floor levels, or more than 35 feet, above the average grade of the lot or tract upon which it is constructed, unless such building shall conform to the following fire prevention and protection requirements:

(a) Sprinkler system and standpipes required. Each such structure shall be equipped with an approved automatic sprinkler system and approved standpipe and hose systems.

(b) Smoke detection system. Each such structure shall be equipped with a smoke detection and alarm system, using approved, listed smoke detectors. In the case of residential buildings, every dwelling unit within such building, every guest room in a motel or hotel, and every sleeping room in a dormitory or similar establishment, shall be provided with an approved listed smoke detector and alarm, installed in accordance with the manufacturers recommendation and listing.

(2) Approved equipment and layout. Only approved sprinklers and devices shall be used in automatic sprinkler systems, and the complete layout of the system shall be submitted to the building official for approval before installation.

(3) Sprinkler requirements. Every automatic sprinkler system required hereunder shall conform with the requirements of the standards for the installation of "Sprinkler Systems NFPA 13," except that a single water supply of adequate pressure, capacity, and reliability, equal to the primary supply required by those standards, may be permitted by the building official.

(4) Standpipe requirements. All standpipes, standpipe systems, hose, water supply, pumps, connections, etc., shall be constructed and installed to meet the requirements of the standards for the installation of "Standpipe and Hose Systems NFPA 14" except that the single source of water supply, if reliable and capable of automatically supplying the required service may be approved by the building official.

(5) Hose threads. All hose threads in connections shall be uniform with that used by the fire department of the city.

(6) Supervisory facilities. Where an automatic sprinkler system is provided as required hereunder, the system shall be adequately supervised to assure reliable operation as follows:

(a) The extinguishing system shall be electrically connected, either directly or through a central station, facility, or other approved equal to the fire department, legally committed to serve the area in which the building is located. System actuation shall initiate alarm sequence.

(b) 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 deactivated.

(c) Where the building fire alarm facilities are provided, actuation of the extinguishing system shall cause the building alarm to sound.

(7) Compliance with fire flow requirements. All buildings and structures hereinafter erected in this city, except residential structures containing less than five (5) family units, shall have adequate water supplies and fire hydrants to fulfill the fire flow requirements as determined by the fire department. In making such determination, the fire department shall utilize the guidelines of the Insurance Services Office of Tennessee. Should any proposed building or structure fail to meet these requirements, it shall be the responsibility of the builder to install such water main or hydrants as may be necessary to bring the property up to these requirements.

(8) "NFPA" defined. The initials "NFPA" wherever they appear herein, shall mean National Fire Protection Association, and standards referred to as NFPA Standards are such standards as have been adopted by the National Fire Protection Association on this date. (1975 Code, § 7-207)

7-207. Violations. It shall be unlawful for any person to violate any of the provisions of this chapter or the fire prevention code hereby adopted, or fail to comply therewith, or violate or fail to comply with any order made thereunder; or build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken; or fail to comply with such an order as affirmed or modified by the governing body of the municipality or by a court of competent jurisdiction, within the time fixed herein. The application of a penalty under the general penalty clause for the city code shall not be held to prevent the enforced removal of prohibited conditions. (1975 Code, § 7-208)

7-208. Designation of members of fire department as inspectors. The chief of the fire department, or the fire marshal, may designate such

members of the fire department as inspectors as shall from time to time be authorized by the city manager. (1975 Code, § 7-208.1)

7-209. Duties of the fire marshal. The fire marshal, and inspectors appointed under him, shall enforce all laws and ordinances covering the following:

(1) The prevention of fires.

(2) The storage and use of explosives and inflammables.

(3) The installation and maintenance of automatic and other fire alarm systems and fire extinguishing equipment.

(4) The maintenance and regulation of fire escapes.

(5) The maintenance of protection and the elimination of hazards in buildings and structure, including those under construction.

(6) The means and adequacy of exit in case of fire from factories, schools, hotels, lodginghouses, asylums, hospitals, churches, halls, theaters, amphitheaters, and all other places in which numbers of persons work, live or congregate, from time to time, for any purpose.

(7) The investigation of the cause, origin and circumstances of fires.

(8) The fire marshall shall have, in addition to such powers as that office may have, the power to issue ordinance summonses as citations in lieu of arrest to the city court to owners and/or occupants of premises found to be in violation of the terms, provisions and conditions of title 7 of the city code.

He shall have such other powers and perform such other duties as may be conferred and imposed from time to time by law. (1975 Code, § 7-209, as amended by Ord. #97-751, § 1, Oct. 1997)

7-210. Right of entry for inspection or investigation. The chief of the fire department, the fire marshal, or any inspector may, at any reasonable hour, enter any building or premises in the city for the purposes of making any inspection or investigation which, under the provisions of this chapter, he may deem necessary to be made. (1975 Code, § 7-210)

7-211. Inspections of hazardous manufacturing processes and storage, etc., of explosives and inflammables. The chief of the fire department or the fire marshal shall inspect, or cause to be inspected by members of the fire department, as often as they deem necessary, all specially hazardous manufacturing processes, storage, or installations of gases, chemicals, oils, explosives and flammable materials, all interior fire alarms and automatic sprinkler systems, and such other hazards or appliances as they shall designate, and shall make such orders as may be necessary for the enforcement of the law and ordinances governing the same and for safe-guarding life and property from fire. (1975 Code, § 7-211)

7-212. Inspections of places of assembly. The chief of the fire department or the fire marshal shall inspect, or cause to be inspected by the officers and members of the fire department, each place of assembly at such times, including times of occupancy and use, as to insure compliance with all laws, regulations and orders dealing with over-crowding, use of decorations and maintenance of exitways, exits and fire appliances in such places of assembly. (1975 Code, § 7-212)

7-213. Inspections of buildings and premises. The chief of the fire department or the fire marshal shall inspect, or cause to be inspected by the officers and members of the fire department, as often as they deem necessary, all buildings and premises, except the interiors of private dwellings, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or violation of the provisions or intent of the code. The chief of the fire department, or the fire marshal, or any inspector, upon the complaint of any person, or whenever he deems it necessary, shall inspect any building or premises in the city. (1975 Code, § 7-213)

7-214. Issuance of order to remedy dangerous condition. Whenever any person making inspection, as provided herein, finds any building or other structure which for want of repairs, lack of sufficient fire escapes, automatic or other fire alarm apparatus, fire alarm boxes or fire extinguishing equipment, or by reason of age or dilapidation, or from any other cause, is especially hazardous, or liable to fire, and which is so situated as to endanger other property, or the occupants of any premises, he shall order such dangerous condition to be remedied in such manner as may be specified by the fire prevention code.

Whenever any person making inspection, as provided herein, finds in any building combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulations of waste paper, boxes, shavings, or highly inflammable material, so situated as to endanger property or the occupants of premises, or finds obstructions to or on fire escapes, stairs, passageways, doors, or windows, liable to interfere with the operations of the fire department or the egress of occupants in case of fire, he shall order the same to be removed or remedied; provided, that if any substance or material is found on premises in violation of the provisions of this code relating to the storage and possession of such substance or material it may be confiscated immediately. The fire marshall shall have the power to issue ordinance summonses as citations in lieu of arrest to the city court to owners and/or occupants of premises found to be in violation of the terms, provisions and conditions of title 7 of the city code. (1975 Code, § 7-214, as amended by Ord. #97-751, § 2, Oct. 1997)

7-215. Service of orders. The service of any order issued pursuant to the fire prevention code may be made upon the occupant of the premises to

which such order relates either by delivering a copy of it to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises, or in case no such person is found upon the premises, by affixing a copy thereof in a conspicuous place on the entrance door of the premises. Whenever it may be necessary to serve an order upon the owner of premises, such order may be served either by delivering to and leaving with such owner a copy of the order, or if he is absent from the city, by mailing such copy by registered mail to his last known post office address. If buildings or other premises are owned by one person and occupied by another under lease or otherwise, the orders issued in connection with the enforcement of this chapter shall apply to the occupant, except where the orders require the making of additions to, or changes, in, the premises themselves, such as would immediately become real estate and be the property of the owner of the premises. In such cases the orders shall affect the owner and not the occupant unless it is otherwise agreed between the owner and the occupant. (1975 Code, § 7-215)

7-216. Powers of the fire marshal when order not complied with. If the owner or occupant of any premises, fails or refuses to comply with the terms of such order, the fire marshal may, at his discretion, order any building especially hazardous or liable to fire, which threatens other property or the safety of the occupants, repaired or demolished, as necessity may require, by the city at the expense of the owner, and may, in his discretion, confiscate any combustible or explosive matter or other material creating a fire hazard which was ordered removed. The fire marshal shall have the power to issue ordinance summonses as citations in lieu of arrest to the city court to owners and/or occupants of premises found to be in violation of the terms, provisions and conditions of title 7 of the city code. (1975 Code, § 7-216, as amended by Ord. #97-751, § 3, Oct. 1997)

7-217. Investigation of causes for fires. The fire marshal shall investigate the cause, origin and circumstances of every fire occurring in the city by which property had been destroyed or damaged and, as far as possible, shall determine whether the fire is the result of carelessness or design. Such investigations shall be begun immediately upon the occurrence of a fire, and if it appears to the officer making such investigation that such fire is of suspicious origin, the chief of the fire department shall immediately be notified of the facts, shall immediately take charge of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters, and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. (1975 Code, § 7-217)

7-218. City attorney and police to assist in investigation. The city attorney and police department upon the request of the fire marshal shall assist

the inspectors in the investigation of any fire which is, in their opinion, of a suspicious origin. (1975 Code, § 7-218)

7-219. Fire drills in schools. The chief of the fire department and the fire marshal shall require the principals or persons in charge of public, private or parochial schools and other educational institutions in the city to have two fire drills each month, and to keep all doors and exits unlocked during school hours. (1975 Code, § 7-219)

7-220. Smoke detectors in residential rental units. (1) All rental living units of residential property whether single family, duplex or multi-family, both new and existing, are hereby required to be equipped with at least one UL approved single station smoke detector (in accordance with UL Standard #217 or equivalent) on each level, outside, but adjacent to, the sleeping areas, installed in accordance with the manufacturers instructions. Said smoke detector shall be installed at the expense of the property owner or his authorized agent and shall be tested and determined to be in proper working order at the time of installation, or immediately upon the final passage of this section if the smoke detector has been previously installed, by the property owner or his authorized agent.

(2) It shall be the responsibility of the owner or his authorized agent to insure that the required smoke detector is operational prior to reoccupancy of the unit if the existing residents have vacated, or immediately upon the final passage of this section if the unit is presently occupied.

(3) It shall be the responsibility of the tenant of any rental unit to maintain the smoke detector in proper working order during his occupancy of said unit in accordance with the manufacturers instructions, which shall be made available to him by the owner or his authorized agent.

(4) It shall be unlawful for any persons to tamper with or remove any smoke detector required by this section.

(5) Any persons violating the provisions of this section shall be guilty of a misdemeanor. Each day on which a violation continues shall constitute a separate offense under this section.

(6) Compliance with this section shall not relieve any person from requirements of any other applicable law, ordinance, rule or regulation. (1975 Code, § 7-220)

7-221. **Penalty for violation**. Each and every violation of the terms, provisions and conditions of this title in declared to be punishable by a fine of up to $50.00 per day. Each separate condition shall be a separate offense and violation punishable by a fine of up to $50.00 per day for each condition cited. Each day of continued violation shall constitute a separate offense. (as added by Ord. # 97-751, § 4, Oct. 1997)

CHAPTER 3

FIRE DEPARTMENT[1]

SECTION

7-301. Title.
7-302. Creation and purpose.
7-303. Salaried employees--volunteers--partial compensation--effect.
7-304. Compensation to volunteers.
7-305. Equality of treatment, duties and obligations.
7-306. Officers.
7-307. Selection of chief--qualifications.
7-308. Duties of chief.
7-309. Membership.
7-310. Suspension and discharge of members.
7-311. Equipment.
7-312. Purchase of new equipment.
7-313. Housing of equipment.
7-314. Alarm system.
7-315. Unauthorized use of fire apparatus or equipment.
7-316. Trespass upon fire station property.
7-317. Mutual aid agreements and contractual fire service authorized.
7-318. Extra territorial use of apparatus.
7-319. Member's identification.
7-320. Membership insignias for cars.
7-321. Department members possess police powers.
7-322. Assistance of police required.

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[1]Charter references

For detailed charter provisions governing the operation of the fire department, see Tennessee Code Annotated, title 6, chapter 21, §§ 6-2133--6-2136(a). For specific provisions in §§ 6-2133--6-2136(a) related to the following subjects, see the sections indicated.

- Fire chief
  - Appointment: § 6-2133.
  - Duties: § 6-2134.
- Fire marshall: § 6-2136.
- Firemen
  - Appointment: § 6-2133.

Municipal code reference

- Emergency ambulance service: title 20, chapter 7.
- Special privileges with respect to traffic: title 15, chapter 2.

7-323. Social officers.
7-324. Duties of social officers not to interfere with fire duties.

7-301. Title. This chapter shall be known as the Red Bank Fire Department Ordinance. (1975 Code, § 7-301)

7-302. Creation and purpose. There is hereby created a department, to be hereafter known as the Red Bank Fire Department, the object of which shall be the prevention, fighting, control and extinguishment of fire, and the protection of life and property within the corporate limits of the City of Red Bank, Tennessee. (1975 Code, § 7-302)

7-303. Salaried employees--volunteers--partial compensation--effect. The city is authorized to furnish certain salaried employees, at its discretion, who shall be full-time employees of the city. The city is further authorized to accept, as non-compensated volunteers, those able bodied persons who may volunteer their services in the department, subject to such regulations and conditions as the city manager, or his designated agent, may provide. (1975 Code, § 7-303)

7-304. Compensation to volunteers. Under such circumstances and conditions, and subject to such regulations, as the city manager may determine and provide, the city may provide compensation to those otherwise designated as volunteers for certain duties, tasks, or types of service. (1975 Code, § 7-304)

7-305. Equality of treatment, duties and obligations. All members of the fire department, whether salaried employees of the city, part-time employees, partially compensated volunteers, or wholly uncompensated volunteers, shall be treated equally in all matters and respects, except those having to do with compensation and employee benefits. Similarly, all such persons shall be governed by the ordinances and resolutions of this city, and by the rules and regulations promulgated by the city commission or the city manager with respect to employees of the city, again with the exception of those matters relating to compensation and benefits. (1975 Code, § 7-305)

7-306. Officers. The department shall consist of a chief, one or more assistant chiefs, and such other officers as the city manager may deem necessary for the effective operation of the department. (1975 Code, § 7-306)

7-307. Selection of chief--qualifications. The chief shall be appointed by the city manager in the same manner as all other employees of the city. He shall be technically qualified in training and experience and shall have the ability to command men and hold their respect and confidence. (1975 Code, § 7-307)

7-308. Duties of chief. The chief shall be the head of the department, and shall be responsible for the general condition and the efficient operation thereof, the training of its members, and the performance of all other duties imposed upon him, including specifically the following:

(1) He shall formulate a set of rules and regulations to govern the department and shall be responsible for the personnel, morale, and general efficiency of the department.

(2) He shall determine the number and kind of companies of which the department is to be composed and shall determine the response of such companies to alarms.

(3) He shall, at least once a month, conduct suitable drills for instruction in the operation and handling of the equipment, first aid and rescue work, a study of buildings in the City of Red Bank, fire prevention, water supplies, and all other matters generally considered essential to good firemanship and safety of life and property from fire.

(4) He shall be responsible for the selection, location, installation, inspection and maintenance of all fire hydrants and other available sources of water supply that may be used for fire-fighting purposes.

(5) He is hereby required to assist the proper authorities in suppressing the crime of arson by investigation or causing to be investigated the cause, origin and circumstances of all fires.

(6) He is hereby empowered to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner and occupant to abate, in a specified time, any and all fire hazards that may be found. Any person so served with a notice to abate any fire hazard shall comply therewith and promptly notify the chief.

(7) He shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the department.

(8) He shall report monthly to the city manager the condition of the apparatus and the equipment, the number of fires during the month, their location and cause, date of same, and loss occasioned thereby, the number and purpose of all other runs made, and the number of members responding to each fire or run, and any changes in membership.

(9) He shall make a complete annual report to the city manager within one month after the close of the fiscal year, such report to include the information specified in subsection (7), together with comparative data for previous years and recommendations for improving the effectiveness of the department. (1975 Code, § 7-308)

7-309. Membership. The membership of the department shall consist of such persons as may be appointed by the city manager, or his designee. They shall be able bodied citizens residing in such proximity to the fire station as to make them reasonably available for service and shall have telephones in their

homes. Determination of whether candidates for appointment are able-bodied shall be made by the chief after a medical and physical examination has been made in a manner prescribed by the chief and approved by the city manager. (1975 Code, § 7-309)

7-310. Suspension and discharge of members. Any member of the department may be suspended or discharged by the chief at any time he may deem such action necessary for the good of the department. Upon written request of such member to the city manager, he shall be given a hearing before the city manager on charges brought by the chief. A request for a hearing before the city manager shall be made within five days after the action of the chief complained of. (1975 Code, § 7-310)

7-311. Equipment. The department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire and as the city may be financially able to provide. All equipment operated, maintained or utilized by the department shall be the property of the city. (1975 Code, § 7-311)

7-312. Purchase of new equipment. Recommendations of apparatus and equipment needed shall be made by the chief to the city manager and after approval by the city manager shall be purchased in such manner as may be designated by the city manager and the board of commissioners, consistent with the requirements of the charter and applicable state law. (1975 Code, § 7-312)

7-313. Housing of equipment. All equipment of the department shall be safely and conveniently housed in such places as may be designated by the city manager. Such places shall be heated during the winter season. (1975 Code, § 7-313)

7-314. Alarm system. Suitable arrangements for equipment shall be provided for citizens to turn in alarms and for notifying all members of the department so that they may properly respond. (1975 Code, § 7-314)

7-315. Unauthorized use of fire apparatus or equipment. No person shall use any fire apparatus or equipment for any private purpose nor shall any person willfully and without authority take away or conceal any article used in any way by the fire department. (1975 Code, § 7-315)

7-316. Trespass upon fire station property. No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by or having special

permission of an officer or authorized member of the department. (1975 Code, § 7-316)

7-317. Mutual aid agreements and contractual fire service authorized. The board of commissioners of the city is hereby authorized to enter into agreements or contracts with nearby incorporated communities or governing bodies of other organizations to provide the members of such communities or organizations with fire protection or to establish a mutual aid system. (1975 Code, § 7-317)

7-318. Extra territorial use of apparatus. No apparatus shall be hired out or permitted to leave the City of Red Bank except in response to a call for aid to a fire in a neighboring community with whom the city has an agreement or contract, without consent of the chief, the city manager or such other officers of the department as the chief has designated in writing to grant such consent, a copy of which has been filed with the city manager. The officer in charge of the department shall have power to assign equipment for response to calls for outside aid in accordance with § 7-317 supra, and in other cases, only when the absence of such equipment will not jeopardize protection in the city. (1975 Code, § 7-318)

7-319. Member's identification. Each member of the department shall be issued a badge designating his rank. (1975 Code, § 7-319)

7-320. Membership insignias for cars. Each member of the department driving a car shall be issued a suitable insignia to be attached to the car. (1975 Code, § 7-320)

7-321. Department members possess police powers. All regularly appointed members of the fire department are hereby given the necessary special police powers for the purpose of enforcing the provisions of this chapter. (1975 Code, § 7-321)

7-322. Assistance of police required. It is hereby made the special duty of the chief of police and other peace officers who may be on duty and available for fire duty to respond to all fire alarms and assist the fire department in the protection of all property, in regulating traffic, in maintaining order, and enforcing observance of all sections of this chapter. (1975 Code, § 7-322)

7-323. Social officers. The department may elect a president, vice president, secretary and treasurer to be known as social officers. Such officers may be elected in any manner and for any term the membership may decide

upon. Their duties shall be to arrange for and manage any and all social functions sponsored by the department. (1975 Code, § 7-323)

7-324. Duties of social officers not to interfere with fire duties. The functions and duties of said social officers shall in no wise interfere with those of the regular department officers who are charged with the responsibility for all fire service activities of the department. (1975 Code, § 7-324)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. RED BANK LIQUOR REGULATIONS.
2. BEER.
3. CONSUMPTION OF ALCOHOL BY MEANS OF "BROWN BAGGING."

CHAPTER 1

RED BANK LIQUOR REGULATIONS

SECTION
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[1]State law reference
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8-101. Title. This chapter shall be known as the Red Bank Liquor Ordinance. (1975 Code, § 2-101)

8-102. Selling and distributing generally. It shall be unlawful for any person to engage in the business of selling or distributing alcoholic beverages whether at retail, wholesale or for on premises consumption within the corporate limits of the city except as provided by Tennessee Code Annotated, title 57, and in accordance with the rules and regulations promulgated thereunder and as provided under the chapter. (1975 Code, § 2-102, as replaced by Ord. #03-877, July 2003)

8-103. Definitions. The following terms whenever used in this chapter shall have the meanings hereinafter ascribed:

(1) "Alcoholic beverages." All beverages having an alcoholic content of more than five per cent (5%) by weight, as further defined by Pub. Acts 1939, ch. 49 and amendments thereto.

(2) "License." When appearing alone, refers to the city privilege license issued by the City of Red Bank.

(3) "State license." Refers to the state privilege license.

(4) "Wholesalers." Any person, firm, or corporation having a place of business within the corporate limits of Red Bank, for the sale at wholesale of alcoholic beverages, and holding a state license and city license authorizing such sale.

(5) "Retailer." Any person having a place of business within the corporate limits of Red Bank for the retail sale of alcoholic beverages and who holds a state license and city license authorizing such sale.

(6) "Board of commissioners" or "board." The board of commissioners of the City of Red Bank.

(7) "City manager." The City Manager of Red Bank.

(8) "Character certificate." The certificate of good moral character required by the provisions of Tennessee Code Annotated, § 57-3-208.

(9) "Permit." The permit issued by the city evidencing the payment of the inspection and enforcement fee.

(10) "Minor." Any person under eighteen (18) years of age.

(11) "State commission." The Tennessee Alcoholic Beverage Commission. (1975 Code, § 2-103)

8-104. Manufacture, storage, etc., lawful. It shall be lawful to manufacture, store, transport, sell, possess, distribute, and receive alcoholic beverages in the city, subject to the provisions of this chapter, particularly § 8-140 hereof. (1975 Code, § 2-104)

8-105. Privilege licenses required. Before any person shall engage in the manufacture or sale, at wholesale or retail, of alcoholic beverages or in the manufacture or vinting of wine, in this city, a privilege tax shall be paid to the city recorder and a license secured as follows:

(1) Manufacturer's, distributor's, or rectifier's license, per annum $1,000.00

Such license shall permit the holder to manufacture, distill, vent, and rectify alcoholic beverages.

(2) Wholesale liquor dealer's license, per annum 500.00

Such license shall permit the holder to sell at wholesale alcoholic, spirituous beverages in sealed packages only, to state and city licensed retainers only.

(3) Retail liquor dealer's license, per annum 250.00

Such license shall permit the holder to sell at retail, to consumers, alcoholic beverages in sealed packages only.

(4) Winery license, per annum 250.00

Such license shall permit the holder to manufacture, but not to rectify or fortify, alcoholic vinous beverages unless the holder thereof is also a distiller or rectifier and holds a manufacturer's license. (1975 Code, § 2-105)

8-106. Applicants for certain licenses to be citizens. All applicants for manufacturers', distillers', or rectifiers' licenses or for winery licenses shall be citizens of the United States. If the applicant is a corporation, no license shall be issued unless all its stockholders are citizens of the United States. (1975 Code, § 2-106)

8-107. Application for certificate for license. (1) Before any character certificate, as required by the provisions of Tennessee Code

Annotated, § 57-3-208, shall be signed by the mayor or any member of the board of commissioners, an application in writing shall be filed with the board, on a form to be provided by the city, giving the following information:

(a) Name, age, and address of the applicant.

(b) Number of years residence in the city.

(c) Occupation or business and length of time engaged in such occupation or business.

(d) Whether or not the applicant has been convicted of the violation of any state or federal law or of the violation of this code or any city ordinance.

(e) If employed, the name and address of the employer.

(f) If in business, the kind of business and location thereof.

(g) The location of the proposed store for the sale of alcoholic beverages.

(h) The name and address of the owner of the premises and the amount of rent to be paid.

(i) The amount of money invested or to be invested; the source of the funds to be used, and, if borrowed, the name of the person from whom borrowed; the name of the bank with whom applicant does business; and the name of any person who is aiding the venture financially, either by loan or endorsement.

(j) The name of any person who will be interested, directly or indirectly, in the business with the applicant.

(k) If the applicant is a partnership, the name, age, and address of each partner, and his occupation, business, or employer.

(l) Such other information as the city may request.

(2) The application required herein shall be verified by the oath of the applicant, and, in the event the applicant is a partnership, shall be verified by the oath of each partner.

(3) Each application shall be accompanied by a bond in favor of the city, executed by a surety company duly authorized and qualified to do business in Tennessee, in the amount of $5,000.00 in the case of wholesalers, or $1,000.00 in the case of retailers. Said bonds shall be conditioned that the principal thereof shall pay any fine which may be assessed against such principal by any court of competent jurisdiction. (1975 Code, § 2-107)

8-108. Applicant to agree to comply with laws. The applicant for a certificate for a license shall agree to comply with the state and federal laws and ordinances of the city and rules and regulations of the state commission with reference to the sale of alcoholic beverages. (1975 Code, § 2-108)

8-109. Appearance of applicant before board of commissioners. Each applicant for a certificate for a license shall be required to appear in person before the board of commissioners for such examination as may be

desired by the board. He shall furnish such information as may be required and shall agree to the examination of his bank account, books, records, or other accounts by any member of the board or by any person designated by the board to make such investigation and examination. (1975 Code, § 2-109)

8-110. Investigation of applicant. At the first regular meeting of the board of commissioners following receipt of such an application by the city, the board shall refer the application to the city manager for investigation thereof. The city manager shall make, or cause to be made, an investigation of the applicant to determine whether or not he is a person of good moral character and entitled to a certificate therefor and also of the proposed location, to determine whether or not it meets the requirements of this chapter. (1975 Code, § 2-110)

8-111. Report on investigation. At the first regular meeting of the board of commissioners occurring more than thirty (30) days following the submission of the application to the board of commissioners, the city manager shall make his report on his investigation to the board of commissioners. Said report shall be in writing and a copy thereof shall be attached to the application. (1975 Code, § 2-111)

8-112. Action on application. At said meeting, after receiving the report of the city manager, the board of commissioners shall act upon said application and its action shall be noted thereon and such application shall be filed with the city recorder. (1975 Code, § 2-112)

8-113. Issuance of certificate to a corporation. No certificate for the issuance of a license to a corporation shall be approved unless such corporation complies with the provisions of Tennessee Code Annotated, § 57-3-203, as heretofore or hereafter amended. (1975 Code, § 2-113)

8-114. Residence required for certificate for wholesale or retail license. The applicant for a certificate for either a wholesale or a retail license shall have been a bona fide resident of this county for not less than two (2) years, and of this city at the time his application is filed. (1975 Code, § 2-114)

8-115. Applicant to hold state license, etc. The recorder shall not issue a license under this chapter until the applicant has received a state license from the state commission and has been issued a character certificate signed by the mayor or a majority of the members of the board of commissioners. (1975 Code, § 2-115)

8-116. When license not to be issued. No license for the manufacture or sale at wholesale or retail of alcoholic beverages, or for the manufacture or

vinting of wine, and no character certificate shall be issued to any person who has been convicted of any offense under the laws of the United States, or any of them, or of the ordinances of this city, excluding, however, traffic violations. (1975 Code, § 2-116)

8-117. Restrictions on local liquor retailer's licenses. (1) Maximum number of licenses. No more than three (3) local liquor retailer's licenses for the sale of alcoholic beverages at liquor stores shall be issued under this chapter representing no more than three liquor stores in the city. There shall be no numerical limit on licenses for on-premises consumption which otherwise conform to this chapter and to state law.

(2) Term renewal. Each license shall expire on December 31st of each year. A license shall be subject to renewal each year by compliance with all applicable federal statutes, state statutes, state rules and regulations and the provisions of this chapter.

(3) Display. A licensee shall display and post and keep displayed and posted his or her license in a conspicuous place in the licensee's liquor store at all times when any activity or business authorized thereunder is being done by the licensee.

(4) Transfer. A licensee or co-licensee shall not sell, assign or transfer his license or any interest therein to any other person. No license shall be transferred from one location to another location without the express permission of city council.

(5) Fees. A license fee of $1000.00 is due at the time of application for a license and annually prior to January 1 each year thereafter. The initial license shall remain in effect for the remainder of the calendar year when it is first issued so that the first year may not be a full year period. The license fee shall be paid to the city recorder before any license shall issue. (1975 Code, § 2-117, as replaced by Ord. #03-877, July 2003)

8-118. Licenses not assignable or transferable. The holder of a privilege license issued under this chapter shall not sell, assign, or transfer such license for the calendar year in which the same is issued. (1975 Code, § 2-118)

8-119. Permit to be secured by licensee. Any person obtaining a privilege license under this chapter shall, at the time he obtains such license, obtain a permit from the city recorder and pay the inspection and enforcement fee provided for herein. Such permit shall not be transferable and shall be renewed annually. (1975 Code, § 2-119)

8-120. Retail inspection and enforcement fee levied. Each retail dealer shall pay an inspection and enforcement fee of five per cent (5%) on the gross purchase price of alcoholic beverages purchased by him for resale. (1975 Code, § 2-120)

8-121. Same--collection. The inspection and enforcement fee levied by the preceding section shall be collected by the wholesale dealer selling to retailers in the city. It shall be based on the wholesale price charged by the wholesale dealer to the retail dealer. The wholesale dealer shall give a copy of the invoice of each sale of alcoholic beverages to the retail dealer showing the price charged for such beverages, together with the inspection and enforcement fee collected from such retailer. The wholesale dealer and retail dealer shall keep on file a copy of such invoice, which shall be subject to inspection by any police officer or inspector employed by the city for the enforcement of the laws and ordinances regulating the sale of alcoholic beverages. The wholesale dealer shall pay the amount of inspection and enforcement fees collected each month to the city recorder on or before the tenth (10th) day of the succeeding month, together with a statement showing the name of each retailer paying such inspection and enforcement fee, and the amount paid by each retailer. (1975 Code, § 2-121)

8-122. Wholesale inspection and enforcement fee. Each wholesaler shall pay an annual inspection and enforcement fee of two hundred and fifty dollars ($250.00). (1975 Code, § 2-122)

8-123. Powers and duties of inspectors. The inspectors employed by the city shall examine the records of wholesale and retail dealers in the city and shall enforce in the city the state laws and city ordinances and rules and regulations promulgated by the state commission with reference to the sale, possession, storage, delivery, and distribution of alcoholic beverages. Such inspectors shall have the powers and authority of police officers. (1975 Code, § 2-123)

8-124. Violations to be reported; request for revocation of license. Each inspector shall report to the city manager the violation by any wholesale or retail dealer of any law, ordinance, rule, or regulation relating to the possession, sale, or delivery of alcoholic beverages. When the city manager receives evidence of such violation by any wholesale or retail dealer, he shall certify such facts to the mayor or board of commissioners, and the mayor or a majority of the board shall in turn certify such facts to the state commission with the request that the license of such violator be revoked. (1975 Code, § 2-124)

8-125. Effect of revocation of license. When a license is revoked, no new license shall be issued to permit the sale of alcoholic beverages on the premises operated under the former license until after the expiration of one (1) year from the effective date of such revocation. (1975 Code, § 2-125)

8-126. Only one establishment to be operated by wholesaler or retailer. No retailer or wholesaler shall operate, directly or indirectly, or be interested in, more than one place of business for the sale of alcoholic beverages in the city. No person holding a retail or wholesale license issued by any other municipality in this county shall operate, either directly or indirectly, a wholesale or retail establishment in this city. The word "indirectly," as used in this section, shall include and mean any kind of interest in another place of business by way of stock, ownership, loan, partner's interest, or otherwise. (1975 Code, § 2-126)

8-127. Location for liquor store or establishment holding a license for on-premises consumption. (1) No license or permit for a retail package store shall be granted which authorizes the sale, storage, or manufacture or, in the case of a license primarily for on-premises consumption of beverages within three hundred (300) feet of any school, church or day care center. Such measurement shall be in a straight line from center of main entrance to center of main entrance.

(2) No premises license or permit for either a retail package store or a license permitting on-premises consumption shall be located in other than a Zone C-Commercial Zone.

(3) No license or permit for on-premise consumption on package or retail sales shall be granted which authorizes the sale, storage or manufacture of beer or alcoholic beverages within five hundred (500) feet of any adult-oriented establishment (as defined elsewhere in this code).

(4) In its discretion the board may require any applicant or opponent to the application, at his or her own expense, to provide the survey of a Tennessee Registered Land Surveyor to the board for its use if the distance measurement referenced above shall be reasonably in dispute. (1975 Code, § 2-127, as replaced by Ord. #03-877, July 2003)

8-128. Retail establishments--minimum requirements. No retail store shall be located upon any premises except in accordance with the following minimum requirements:

(1) Said stores shall be located on the ground floor only. If the premises contain more than one story, there shall be no means of entrance or access from the retail store to any upper story.

(2) Each such store shall be of fire-proof brick construction.

(3) Each such store shall have only one entrance, and that facing, or opening onto, one of the streets listed in the preceding section. Windows in such stores shall be permitted only in the front wall thereof, facing one of the streets designated in said section.

(4) Only one sign advertising the business, or the products sold therein, shall be permitted on the exterior of such building. Such sign shall be flush with the front exterior wall of the building; may extend no more than six

(6) inches from the exterior wall to which it is attached; its height may not exceed twelve (12) inches; its length may not exceed one-half (½) of the width of the building. Said sign may be illuminated, but neon signs are prohibited, whether within or without the building. Non-illuminated signs painted upon the door or windows shall be permitted in addition to the sign hereby authorized,

(5) No sign shall be permitted advertising the business, or its products, at any location in the city except as specified in the preceding sub-section. (1975 Code, § 2-128)

8-129. Wholesale stores--minimum requirements. No wholesale store shall be located anywhere on premises in the city except in compliance with the following minimum requirements:

(1) It shall be located on the ground floor of said premises. Should the premises contain more than one story, there shall be no entrance or means of access to any upper story from said premises.

(2) It shall have only one main entrance, and that facing one of the streets designated in § 8-127 of this code, provided, however, that wholesale stores located on a railroad spur track may receive deliveries from railroad cars through back doors adjacent to such track.

(3) It shall be of fire-proof brick construction.

(4) Only one sign advertising the business, or the products sold herein, shall be permitted on the exterior of such building. Such sign shall be flush with the front exterior wall of the building; may extend no more than six (6) inches from the exterior wall to which it is attached; its height may not exceed twelve (12) inches; its length may not exceed one-half (½) of the width of the building. Said sign may be illuminated, but neon signs are prohibited, whether within or without the building. Non-illuminated signs painted upon the door or windows shall be permitted in addition to the sign hereby authorized.

(5) No sign shall be permitted advertising the business, or its products, at any location in the city except as specified in the preceding sub-section. (1975 Code, § 2-129)

8-130. Retail and on-premises consumption license holders. In the operation of any retail liquor store, the following regulations shall be strictly observed:

(1) No beverages shall be sold for consumption on the premises.

(2) No purchase of alcoholic beverages shall be made except from wholesalers.

(3) No alcoholic beverages shall be sold from any place except the premises named in the license.

(4) No alcoholic beverages shall be taken by any retailer and/or on-premises consumption license holder to his home or any other place for the purpose of sale or delivery.

(5) No retailer and/or on-premises consumption license holder shall sell alcoholic beverages in any quantity to a known bootlegger or to one known to be the agent or representative of a bootlegger, or to one he has reason to believe will engage in the illegal sale or distribution of alcoholic beverages.

(6) No retailer and/or on-premises consumption license holder shall sell any alcoholic beverages to a minor.

(7) No retailer and/or on-premises consumption license holder shall sell any alcoholic beverages to any person who is intoxicated or who is accompanied by a person who is intoxicated.

(8) No retailer and/or on-premises consumption license holder shall make deliveries of alcoholic beverages to any customer except upon and within the immediate premises of the retail establishment.

(9) No retailer and/or on-premises consumption license holder shall store or offer for sale at his salesroom any article or commodity whatever except alcoholic beverages regulated under the provisions of this chapter.

(10) No retailer shall open before 9:00 A.M. or after 10:00 P.M.

(11) No retailer shall be open on any Sunday, Christmas day, Thanksgiving day, New Years day, Fourth of July, Labor day, or any election day, whether general, primary, special, or municipal. If any holiday designated above falls on Sunday, retail establishments shall be closed the following day.

(12) In the event of an emergency, all retail establishments shall be closed upon order of the mayor, city manager, or chief of police.

(13) No radio, pinball machine, slot machine or other device which tends to cause persons to congregate in such place shall be permitted.

(14) With respect to retail stores only no seating facilities shall be provided for persons other than employees.

(15) No minor shall be employed therein.

(16) No minor shall be permitted in the place of business.

(17) No person shall be employed unless a citizen of the United States.

(18) [Deleted.]

(19) No person shall be employed who has been convicted of an offense under the laws of the United States, or any of them, or any ordinance of this city, with the exception of traffic violations, or who has had a license, authorizing or permitting the sale, possession, transportation, storage, manufacture, or handling of alcoholic beverages, revoked.

(20) With respect to retail stores only no alcoholic beverages in unsealed bottles or other containers shall be kept, or permitted to be kept on the premises.

(21) Retailers shall keep a complete record of all alcoholic beverages purchased and received. The delivery invoice may constitute such record. It shall show the name of the wholesaler from whom purchase was made, and the date of such purchase delivery. These records shall be kept until they have been inspected and stamped by an inspector of the city. Each retailer and/or on-premises consumption license holder shall make his records available to such

inspector upon request. (1975 Code, § 2-130, as amended by Ord. #03-877, July 2003)

8-131. Wholesalers--operational regulations. All wholesalers selling to retail liquor dealers shall comply with the following regulations.

(1) No alcoholic beverages shall be sold except to retailers.

(2) No alcoholic beverages shall be sold or delivered to any retailer during the time his license is suspended. A complete record of all sales and deliveries of alcoholic beverages to local retailers shall be kept.

(3) All wholesale dealers shall, each day except Sunday, before 10:00 A.M., file with the city recorder a record of all sales and deliveries made by him in the city on the previous day.

(4) The records of wholesale dealers shall be subject to in section at any time by police officers and inspectors. Such wholesalers shall furnish the inspectors with such information as to contemplated deliveries and days of delivery and such other information with reference thereto as may be requested by the inspector.

(5) All deliveries by wholesale dealers to retail dealers in the city shall be made between the hours of 8:00 A.M.and 5:00 P.M.

(6) No wholesaler shall employ a canvasser or solicitor for the purpose of receiving an order from any consumer for any alcoholic beverages at his residence, place of business, or an other place, nor shall any such wholesaler receive or accept any order solicited by another, provided licensed wholesalers may solicit orders from any licensed retailer at the licensed premises of such retailer.

(7) Complete records of all purchases and receipts of alcoholic beverages received by him, as well as a complete record of all sales and deliveries of alcoholic beverages made by him, shall be kept.

(8) No person who has been convicted of any offense under the laws of the United States, or any of them, or of any ordinance of this city, except traffic violations, shall be employed.

(9) No minor shall be employed, nor shall any such person be permitted in the place of business.

(10) No person shall be employed except citizens of the United States.

(11) No alcoholic beverages in unsealed bottles or other containers shall be kept upon the premises. (1975 Code, § 2-131)

8-132. Advertising signs prohibited. No advertising sign or displays advertising alcoholic beverages shall be permitted in the city except as authorized by § 8-128(5) and § 8-129(5). (1975 Code, § 2-132)

8-133. Cocktail bars prohibited; exceptions. (1) Except in conjunction with and as a part of a restaurant premises where meals are served and available to the public it shall be unlawful for any person to maintain a

cocktail bar in the city or to sell or serve ice, soda, or other mixtures for the purpose of mixing cocktails or highballs or any other intoxicating drinks to be consumed where such ice, soda, or other mixtures are sold or served. The term "cocktail bar," as used in this section, shall mean any public place where ice, soda, or other ingredients are sold or served by the owner or operator the mixing of alcoholic beverage drinks.

(2) In the context of a valid and contemporaneously issued "special events (beer) permit" as otherwise authorized by the provisions of § 8-209(6) of the Red Bank City Code and, expressly provided that the Tennessee Alcoholic Beverage Commission shall have issued a special occasion license for the same location, place, time and organization, person or entity as the permit holder of the "special events (beer) permit" above referenced, it shall not be a violation of this section for such temporary licensee/permittee to distribute or provide alcoholic beverages or wine for on-premises consumption as allowable under the applicable state permit, and if and only if

(a) All conditions of the Red Bank City Code § 8-209(6) "special events (beer) permit" are met and continually observed;

(b) Alcoholic beverages and/or wine are provided free of charge and are not sold or not distributed subject to any financial exchange or "donation" or other device;

(c) Distribution and consumption are confined to the permitted, designated and marked physical area premises as specified in the "special events (beer) permit;"

(d) All conditions and requirements of the beer board and/or chief of police as relates to the valid contemporaneously issued and applicable "special events (beer) permit" are satisfied, followed and adhered to;

(e) The time(s) and location(s) of the premises specified in the "special events (beer) permit" shall be the only times/locations/premises where distribution and/or consumption may occur; and

(f) All otherwise applicable laws, ordinances, rules and regulations with respect to service and consumption of alcoholic beverages and wine are observed and adhered to. (1975 Code, § 2-133, amended by Ord. #03-877, July 2003, and replaced by Ord. #14-1009, Aug. 2014)

8-134. Sales by manufacturers and distillers. No manufacturer or distiller shall sell alcoholic beverages in the city except to wholesalers, or to other manufacturers, distillers, rectifiers, or winery operators. (1975 Code, § 2-134)

8-135. Transportation of quantities in excess of three (3) gallons. It shall be unlawful, except as permitted by chapter Tennessee Code Annotated, title 57, as amended, for any person to transport alcoholic beverages within,

into, through, or from the city in quantities in excess of three (3) gallons unless such person has on file with the Tennessee Alcoholic Beverage Commission a bond in the amount of one thousand dollars ($1,000) as required by the provisions of the acts cited above; provided, that the provisions of this section shall not apply to any person authorized to sell alcoholic beverages at wholesale when such alcoholic beverages are being transported in a vehicle belonging to the licensee, nor to common carriers complying with the provisions of the Acts cited above. (1975 Code, § 2-135)

8-136. Unstamped alcoholic beverages--sale and purchase. No alcoholic beverage shall be sold or offered for sale or distributed by gift or otherwise in the city unless a stamp evidencing payment of the state tax on such alcoholic beverages is in place on its container. No retailer shall purchase or have in his possession any alcoholic beverages except in retail containers to which such stamps have been properly affixed, except such purchase as may be made under state law, in which event stamps shall be affixed to such containers at the time of purchase. The possession of unstamped alcoholic beverages, except as otherwise provided herein, shall be deemed prima facie evidence that such beverage is possessed with intent to sell or distribute the same contrary to the provisions of this chapter. (1975 Code, § 2-136)

8-137. Same--transportation and possession. It shall by unlawful for any person to transport or possess alcoholic beverages upon which the state revenue stamp has not been placed; provided, that this provision shall not apply to any wholesaler who has had such beverages less than seventy-two hours or is transporting the same from a legitimate manufacturer, as provided by state law; and provided further, that the provisions hereof shall not apply to sheriffs transporting alcoholic beverages. (1975 Code, § 2-137)

8-138. Disposition of alcoholic beverages seized by police, etc. Alcoholic beverages seized by the police, liquor inspectors, or other city employees, on which the federal tax has been paid, shall be turned over to the sheriff of Hamilton County, Tennessee, to be disposed of under an order of court, as provided by Pub. Acts 1947, ch. 127 (Tennessee Code Annotated, §§ 57-9-114 to 57-9-119). The chief of police shall make a complete inventory of the alcoholic beverages turned over to the sheriff and shall take a receipt from the sheriff at the time of delivery for all alcoholic beverages turned over to him. All money received from the sale of such alcoholic beverages shall be turned into the general fund of the city. Licensed retail dealers in the city may purchase alcoholic beverages sold by the sheriff under such an order of court. (1975 Code, § 2-138)

8-139. Drinking in public or prohibited places.[1] It shall be unlawful for any person publicly to drink alcoholic beverages on any street or sidewalk, or in any park, theater, auditorium, stadium, baseball park, or in any public gathering, or in any place where the owner or operator of such place is prohibited from permitting the drinking of alcoholic beverages. (1975 Code, § 2-139)

8-140. Provisions voidable--when. Should the charter of this city be held by the supreme court of this state to prohibit the sale of alcoholic beverages in this city, then all the foregoing provisions of this chapter shall be void, otherwise to be and remain in full force and effect. (1975 Code, § 2-140)

8-141. Violations--punishment. The violation of any of the provisions of this chapter shall be cause for revoking any license held by the offender. Any violation shall likewise be punishable under the general penalty clause for this municipal code of ordinances. (1975 Code, § 2-141)

8-142. Confiscation and sale of contraband liquor. All alcoholic beverages of more than five per cent (5%) alcohol, whether stamped or unstamped, which are sold or stored for the purpose of sale by a person who does not hold a state liquor license shall be contraband and subject to seizure and sale as provided by state law. (1975 Code, § 2-142)

8-143. Confiscation and sale of vehicles used for transporting or storing unstamped liquor. Any vehicle, aircraft, or boat not a common carrier which may be used for transportation or storage for the purpose of distribution, gift, or sale of unstamped alcoholic beverages of more than five per cent (5%) alcohol shall be subject to confiscation and sale in the manner prescribed by the state law. Should any unstamped alcoholic beverages be found in any vehicle, aircraft, or boat, same shall be prima facie evidence that it was there for gift, sale, or distribution. (1975 Code, § 2-143)

8-144. Proceeds from sale of confiscated liquor and vehicles. The proceeds to the city of all seizures, confiscations, and sales made hereunder shall be paid into the general fund of the city and expended for general municipal purposes. (1975 Code, § 2-144)

8-145. Red Bank opts out of any extension of hours by alcoholic beverage commission. The City of Red Bank, pursuant to Tennessee Code Annotated, § 57-4-203(d)(5) opts out of any extension of hours by the Alcoholic

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[1]Municipal code reference
Drinking alcoholic beverages, etc., on streets, etc.: § 11-101.

Beverage Commission of the State of Tennessee. (as added by Ord. #03-877, July 2003)

CHAPTER 2

BEER[1]

SECTION

8-201. Beer defined.
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8-229. Employment of minors.
8-230. Permit required for dispensing, serving or selling beer or other beverages of like alcoholic content for on-premises consumption.
8-231. Licenses for on-premises consumption prohibited except where food sold.

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[1]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).

8-232. License for off-premises consumption prohibited in non-grocery establishments.
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8-236. Privilege tax for sale of beer.
8-237. Existing license and permit holders.
8-238. Duty to return permit.
8-239. Data required from permit applicants.
8-240. Disqualification for false statement.
8-241. Violations.

8-201. Beer defined. The term "beer" as used in this chapter shall mean beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57- 3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1975 Code, § 2-201, and replaced by Ord. #16-1072, Oct. 2016)

8-202. Beer board designated. The city board of commissioners is hereby designated as the beer board of the City of Red Bank. (1975 Code, § 2-202)

8-203. Quorum and authority to act. At all meetings of the beer board a majority shall constitute a quorum and the board shall act only by vote of a majority of all its members. (1975 Code, § 2-203)

8-204. Chairman, meetings, and records. The mayor shall serve as chairman of the beer board. All business of the board shall be conducted at the regular meetings of the board of commissioners, except that called meetings may be held to consider matters related to violations as hereinafter provided. The records of the beer board shall be kept as part of the records of the board of commissioners. (1975 Code, § 2-204)

8-205. Investigation of applicants. The board, through employees of the city designated by the city manager, shall make an investigation of each applicant for a permit to determine the character of the applicant, whether or not the applicant is a suitable person to be issued a permit, and whether the proposed location is a suitable place for the sale of beer, or other beverages of like alcoholic content. It shall be the duty of the employees of the city to cooperate with the beer board in furnishing whatever information any of them

have with respect to applicants and their prospective locations. (1975 Code, § 2-205)

8-206. Investigations of violations. When any holder of a permit and license for the sale of beer is charged with the violation of any of the laws of the State of Tennessee, or ordinances of the City of Red Bank or any other action in the conduct of the business which is not within the spirit of said laws and ordinances, it shall be the duty of the beer board to make an investigation. The beer board is hereby given the power to subpoena witnesses to appear before it in conducting such investigations, and the chairman or acting chairman is given the power to administer oaths. The beer board shall act upon the report of the investigation in accordance with § 8-220 of this chapter. (1975 Code, § 2-206)

8-207. Report of violations. It shall be the duty of the employees of the city to report to the beer board any violation of the laws of the State of Tennessee, ordinances, rules and regulations of the city by any permittee and licensee. (1975 Code, § 2-207)

8-208. Manufacture, distribution, etc., lawful. It shall be lawful to manufacture, distribute, sell, transport, store and possess beer of alcoholic content of not more than five per cent by weight and other beverages of like alcoholic content in the city, subject to all the regulations, limitations and restrictions provided by Tennessee Code Annotated, §§ 57-5-201 through 57-5-212, as amended and subject to the provisions of this chapter of the code. (1975 Code, § 2-208)

8-209. Permit and license required, classification of licenses. No person shall engage in the business of manufacturing, distributing, selling, transporting, storing or possessing of beer and other beverages of like alcoholic content without a permit and license. Such permit and license shall expire one year after its issuance, and shall be obtained and renewed upon application as provided herein. Licenses authorized under this chapter for the retail sale of beer shall be of three types:

(1) Carry-out. A carry-out license authorizes the sale of beer for consumption elsewhere than on the premises where sold. A carry-out license may be obtained by and issued to a licensed manufacturer for the retail sales of such manufacturer's beer(s) as are brewed on the premises at the location at which the manufacturer's license is held.

(2) Restaurant licenses. (a) A restaurant license authorizes the sale of beer for on premises consumption in an establishment where fifty (50%) percent or more of the gross receipts of such establishment is derived from the sale of food, or items other than "beer."

(b) A restaurant license shall also authorize the licensee to sell beer, in conjunction with the sale and service of food only, in dining areas or other designated areas of such restaurant(s) including without limitation outdoor dining areas as provided for herein.

(c) Outdoor dining areas must be contiguous to and attached to the licensed building premises and shall have only one means of ingress and egress for customers into and through the licensed building premises unless by special exception permit issued by the Red Bank City Commission. Outdoor dining areas shall and must be enclosed by fencing not less than three feet (3') in height and must follow the screening requirements of § 14-901 of the City of Red Bank Zoning Ordinance. Such outdoor dining areas that serve beer must meet all minimum distance requirements of the Red Bank beer ordinance and must not encroach upon any city or public right-of-way, street or sidewalk and must be so situated so as not to, in the judgment of the Red Bank City Manager, or designee, impede any sight line distance policies or best practices with respect to nearby roadways. Such outdoor dining areas shall be under the sole control of the licensee. Such outdoor dining areas will not be allowed to be placed between any public roadway and the building premises unless by special exceptions permit issued by the Red Bank Board of Commissioners.

(d) Outdoor dining areas shall not allow any live singing, music or other entertainment or performance which utilizes electrical or amplified music, sounds or speakers. Recorded music, singing, television or other entertainment media is permitted as long as the same shall not be audible off of the premises to the unaided human ear in either any enclosed vehicle or inside any adjacent or nearby enclosed building premises and/or within any residence with windows and doors closed located in any adjacent residential zone. No entertainment media of any sort audible off of the premises regardless of distance shall be allowable between the hours of 11:00 P.M. and 7:00 A.M.

(3) Tavern. (a) A tavern license authorizes the sale and distribution of beer in an establishment where fifty (50%) percent or more of the gross receipts of such establishment is derived from the sale of beer.

(b) All sales and consumption of beer for a licensee holding a "tavern license" shall be limited to consumption inside the building premises and no outdoor sales or consumption of beer shall be permitted.

(4) Craft brewer's sampling license. A craft brewer's sampling license and permit may issue to a licensed manufacturer of beer to permit samples of

the beer(s) brewed on the licensed premises to be consumed on premises for tasting as part of a marketing effort for such beer(s) subject to the following conditions and restrictions:

(a) The consumer/person to whom the sample is provided must be of legal age to purchase beer;

(b) Samples are limited to a maximum of ten (10) ounces per person per day;

(c) Samples shall be provided inside the building premises and/or in an enclosed courtyard setting;

(d) All consumption and/or sampling under a craft brewer's sampling license which occurs out of doors shall be required to adhere to the same standards as set forth in § 8-209(2)(c) and(d).

(e) All other terms, provisions and conditions of title 8, chapter 2, et seq. that are not expressly contradictory to the terms hereof and any statutes, rules or regulations imposed or enacted by the State of Tennessee and any of its applicable subdivisions shall remain in full force and effect;

(f) No "free" samples shall be given except in the circumstance of a credit against the price of on-site brewed product actually contemporaneously purchased, by the permit holder.

(5) Growler sales permitted under certain circumstances. (a) Any permittee holding either a restaurant, tavern or craft brewer's sampling license may also engage in the sale of beer, as otherwise defined herein, for off-premises consumption only in the context of and with the utilization of a carry-out container commonly referred to as a "growler," defined for these purposes as a glass, stainless steel, or ceramic reusable container with a screw on cap or a hinged porcelain gasket cap the size of which containers shall not be less than thirty-two U.S. fluid ounces (32 oz.) and the size of which shall not exceed sixty-four U.S. fluid ounces (64 oz.). Beer sold in growler(s) may not be consumed on the premises where sold.

(b) Vendors shall utilize on-premises sanitized growlers, as defined herein, with a sealed cover or plastic shrink wrapped cover over the screw on cap or hinged gasket porcelain stopper for all growler sales. Refilling a customer's growler without the growler being first sterilized and sanitized by the licensee is not permitted.

(c) Any licensee possessing either a restaurant, tavern or craft brewer's sampling license on October 7, 2014, may apply for a growler permit endorsement at city hall without charge. For all future licensees for restaurant, tavern or craft brewer's sampling licenses, permission to engage in growler sales shall be an integrated part of such restaurant, tavern or craft brewer's sampling license(s).

(6) Special event permits. (a) (i) The beer board is authorized to issue special event permits to bona fide charitable, non-profit or political

organizations or to private parties, corporations or LLCs for private, occasional or social events for special events, provided that such special event permits shall be subject to all other requirements of this chapter and of the Red Bank City Code governing the sale of beer. The beer board is authorized, but is not required, to include provision in any such permit permitting limited outside/out of door sales and consumption, subject to reasonable time, space, and public security requirements as the beer board may impose in such special event permit from time to time and based on recommendation of the city manager and the Red Bank Chief of Police or his or their respective designees. Allowable places may include City of Red Bank parks and/or other facilities if space is reserved therein under then existing practices and policies of the City of Red Bank with respect to such reservations.

(ii) No private party, corporation or LLC that is not a bona fide charitable, or non-profit organization as defined under this section, shall engage in the sale of beer with a special event permit but shall be eligible to use such permit to provide beer for on site social consumption free of charge to its private event invitees and provide beer as a part of its special or occasional private social event(s).

(b) The special event beer permit application fee is set at one hundred dollars ($100.00), which fee is non-refundable. In each such application, each permit applicant shall specify measures to be taken by applicant/permittee to prohibit purchase or consumption by under age individuals and the beer board shall be specifically entitled to impose conditions as the contemplated special event may merit from time to time with respect to the issuance of the special event permit with respect thereto. Such measures shall always include at least

(i) A visible physical separation barrier outside of which no beer may not be distributed, consumed or sold, and

(ii) Each person to whom beer is provided shall wear a visible badge(s), bracelets, pins, etc. which signify that the wearer has been prescreened by the permit holder as to the bearer's age.

(c) The special event permit shall not be issued for longer than one forty-eight (48) hour period unless otherwise specified, subject to the limitations on the hours of sale imposed by law. The application for the special event permit shall state whether the applicant is a charitable, non-profit or political organization or a private party, corporation or LLC holding a special event, include documents showing evidence of the type of organization, and state the location of the premises upon which alcoholic beverages shall be served and the purpose of the request of the license.

(d) For purposes of this section:

(i) Bona fide charitable or non-profit organization means any corporation which has been recognized as exempt from federal taxes under section 501(c) of the Internal Revenue Code and/or as a non-profit Tennessee corporation in good standing with the Secretary of State of Tennessee as of the date of the application and issuance of the permit.

(ii) Bona fide political organization means any political campaign committee as defined in Tennessee Code Annotated, § 2-10-101(a) or any political party as defined in Tennessee Code Annotated, § 2-13-101.

(e) The beer board may impose such additional requirements and conditions upon the special events permittee and permit under such as it shall deem necessary for the health, safety and security of the citizens of the City of Red Bank. No person, organization, political organization, private party, corporation or LLC shall be eligible to receive more than two (2) special event permits in any running twelve (12) month period.

(f) No charitable, non-profit or political organization possessing a special event permit shall purchase, for sale or distribution, beer from any source other than a licensee as provided pursuant to state law.

(g) Failure of the special event permittee to abide by the conditions of the permit and all laws of the State of Tennessee and the City of Red Bank will result in a denial of a special event beer permit for the sale or distribution of beer for a period of one (1) year as well as the imposition of any and all other applicable fines and/or penalties.

(h) Nothing contained herein shall be construed so as to limit the imposition of any criminal penalties which might otherwise apply by reason of any violation of any ordinance of the City of Red Bank and/or laws of the State of Tennessee, except that distribution, sale or consumption in compliance with the terms and subject to the limitations of any such permit as herein provided and within the defined and confined and designated physical space shall not be grounds for citation or prosecution by the City of Red Bank for violation of any open container or public consumption ordinance or statute. (1975 Code, § 2-209, as amended by Ord. #12-972, May 2012, Ord. #14-1003, May 2014, Ord. #14-1008, Aug. 2014, Ord. #14-1012, Oct. 2014, and Ord. #17-1084, April 2017)

8-210. Application for permit to be filed and payment of fee made. Before any permit is issued, the applicant shall pay to the city an application fee of two hundred fifty dollars ($250.00) and an applicant shall file an application in writing, on a form provided by the city, with the city manager, who shall submit each application to the beer board at its next meeting after receipt of

such application. The beer board shall investigate the applicant in accordance with § 8-205 of this chapter, shall obtain a report on the applicant from the chief of police and shall obtain from the applicant those items of information required by Tennessee Code Annotated § 57-5-104. (1975 Code, § 2-210)

8-211. Approval or rejection of application. The beer board shall hold a public hearing on the application and shall consider the report of each application filed, shall grant or refuse the permit, according to its best judgement, under all the facts and circumstances, and shall grant or deny the application at its meeting. The action of the beer board in granting or refusing a license and permit shall be final. (1975 Code, § 2-211)

8-212. Issuance of licenses. The city manager shall issue an appropriate license to the permittee upon the presentation of an approved application as determined by the beer board and the payment of all requisite privilege taxes and/or license fees. (1975 Code, § 2-212)

8-213. Location of premises to be designated. The location of the premises at which the business of the licensee will be conducted shall be designated in his license and in the application therefor. (1975 Code, § 2-213)

8-214. When permit to be refused, locations, distance requirements. (1) No permit for a license for sale distributions or storage shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches or other places of public assembly, or otherwise interfere with the public health, safety and morals. The judgement of the beer board on questions arising under this section shall be final, except as it may be subject to review at law.

(2) No permit required by this provision shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other public places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including but not limited to the zoning laws.

(3) No license or permit for off premises consumption shall be granted which authorizes the sale, storage, or manufacture of such beer or beverages within two hundred (200) feet of any school, church or day care center. No license or permit for on-premises consumption shall be granted which authorizes the sale, storage, or manufacture of such beer or beverages within three hundred (300) feet of any school, church or day care center. Such measurement shall be from center of main entrance to center of main entrance. Provided, however, that this distance proximity prohibition shall not apply to any location that has heretofore been issued a valid permit to sell, store or manufacture beer or other beverages of like alcoholic content under previous distance proximity restrictions, but if any such permittee shall cease or discontinue the sale of beer

for one hundred twenty (120) consecutive days, then the distance proximity prohibition contained in this section shall thereafter apply to such locations.

No license or permit for on or off premises consumption shall be granted which authorizes the sale, storage or manufacture of such beer or alcoholic beverages within five hundred (500) feet of any adult-oriented establishment (as defined elsewhere in this code).

(4) In its discretion the board may require any applicant or opponent to the application, at his or her own expense, to provide the survey of a Tennessee Registered Land Surveyor to the board for its use if the distance measurement referenced above shall be reasonably in dispute. (1975 Code, § 2-214, as amended by Ord. #95-673, April 1995; Ord. #95-679, Aug. 1995; Ord. #95-699, Oct. 1995; Ord. #97-755, Jan. 1998; and Ord. #99-791, July 1999)

8-215. Applicant to have certificate of registration and bond required by state law. Before any license is issued by the city manager, the applicant shall submit satisfactory evidence that he has registered and received from the commissioner of revenue of the State of Tennessee a certificate showing such registration and has complied with Tennessee Code Annotated, § 57-5-106, if applicable. (1975 Code, § 2-215)

8-216. Restrictions on license for billiard and pool rooms. No license shall be issued for any place used to carry on the business of playing pool or billiards, unless for sales in the front of such place in a regularly licensed restaurant or lunchroom separated from the part of the building in which the billiard or poolroom is located by a partition or wall. (1975 Code, § 2-216)

8-217. Licenses to be displayed. The license issued hereunder shall be posted in a conspicuous place on the premises of the licensee. (1975 Code, § 2-217)

8-218. Licenses and permit not transferable. Licenses and permits shall be issued to the owner of the business, whether a person, firm, corporation, joint stock company, syndicate or association. Any permit issued pursuant to this chapter shall be valid:

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

(2) Only for a single location, and cannot be transferred to another location;

(3) Only for a business operating under the name identified in the permit application. However, when an owner operates two (2) or more restaurants or other businesses within the same building, the owner may in his discretion operate some or all such businesses pursuant to the same permit. (1975 Code, § 2-218)

8-219. Grounds for revocation of license and permit. The beer board shall have the power to revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it under this division, upon notice to the permittee and a hearing thereon, for any violation of any provision of state law regulating the sale, storage or transportation of alcoholic beverages or for any violation of any provision of this code or any other ordinance of the city or when the permittee:

(1) Operates a disorderly place; or

(2) Allows fighting or boisterous or disorderly conduct on the premises; or

(3) Has been convicted by final judgement of a court of competent jurisdiction of a crime involving moral turpitude; or

(4) Allows minors to congregate about the premises; or

(5) Sells or transfers the equipment or assets of the business authorized by his permit to another for the purpose of conducting the business at the same location; or

(6) Has made a false statement of a material fact in any application or notice to the board; or

(7) Sells, furnishes, dispenses or allows to be used or consumed, any beer or other alcoholic beverages to any person under the age of twenty-one (21) years; or

(8) Denies access to any portion of the premises at which the sale of beer is permitted, whether or not that portion of the premises is used for the sale of beer, to any policeman or inspector; or

(9) Allows a minor, as such term is defined in Tennessee Code Annotated, § 1-3-105(29), in his employ to sell beer; or

(10) Has been convicted by final judgement of any court of competent jurisdiction of any crime or misdemeanor involving the sale or consumption of beer or alcoholic beverages; or

(11) Allows any violation of any provision of this article to occur on the licensed premises; or

(12) Allows any violation of the rules and regulations of the Hamilton County Health Department; or

(13) Consumes or permits an employee to consume any beer or any alcoholic beverage while on the premises, or to be intoxicated while on the premises; or

(14) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers; or

(15) The beer board may also, in its discretion, revoke a permit for due cause not specified herein.

In addition to other grounds of revocation herein provided, the violation of any of the provisions of this chapter or any false statement by any applicant on his application for a license and permit shall, in addition to any other penalty

provided by law, constitute sufficient grounds for the revocation of the license and permit issued him, and the beer board may also, in its discretion, revoke a license and permit for due cause not specified herein. (1975 Code, § 2-219, modified)

8-220. Action of beer board on report of violation. When the beer board shall receive a report concerning a violation by a licensee which violation in the opinion of the beer board would warrant the revocation or suspension of the license, the beer board shall notify the licensee to appear before the beer board at either the next regular meeting or a called meeting to show cause why his license and permit should not be revoked or suspended. At such meeting said licensee shall be entitled to a public hearing and shall be entitled to introduce such evidence in his behalf. The burden is upon the licensee at said hearing to show that he (or his employees or agents) has not been guilty of such violation or any other offense which would justify the revocation or suspension of his license and permit. After such hearing, the beer board may, in its sole discretion, either revoke or suspend the permit and license, subject only to a review as provided by state law. In the event that it shall appear to the beer board that the permit holder should have his beer permit suspended or revoked because of the sale of beer to minors, other than when the terms of Tennessee Code Annotated, § 57-5-108 apply, then such suspension for a first offense shall be for a period of not to exceed thirty (30) days and for a second such offense a period not to exceed sixty (60) days, and for the third such offense a period of not to exceed ninety (90) days, as determined by the beer board. In addition to such periods of suspension, there is hereby imposed a penalty for each such offense up to the amount of five hundred dollars ($500.00) per offense. In the event that the terms of Tennessee Code Annotated, § 57-5-108 apply, the period of suspension shall be as therein provided and a like penalty of up to $500.00 is imposed for any such offense. The beer board shall determine by vote the amount of any such revocation, suspension and penalty. The beer board may offer a permit or license holder the alternative of paying a civil penalty not to exceed $1,500.00 for each offense of making or permitting to be made any sales to minors or a civil penalty not to exceed $1,000.00 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. The holder's payment of a civil penalty shall not effect his ability to seek review of the civil penalty as provided by law. The alternative civil penalties provided herein shall in all things be in accordance with Tennessee Code Annotated, § 57-5-108(a)(2). (1975 Code, § 2-220)

8-221. Possession of federal license without city license. The possession by any person of a federal license to sell alcoholic beverages without

the corresponding city license required shall be prima facie evidence in all cases that the holder of such federal license is selling beer or other beverages of like alcoholic content in violation of the provisions of this chapter. (1975 Code, § 2-221)

8-222. Retailers to purchase from wholesalers licensed by city. It shall be unlawful for any person holding a license for the sale or retail of beer or other beverages of like alcoholic content to purchase beer or such other beverages from any one other than a brewer, wholesaler or distributor licensed to carry on business in Hamilton County. (1975 Code, § 2-222)

8-223. Home delivery services prohibited. No person shall be engaged in accepting orders and making home deliveries of beer in the city. It shall be unlawful for any person or entity to solicit, either in person or by telephone, the sale or delivery of beer, or to make sales or retail deliveries of beer. (1975 Code, § 2-223)

8-224. Hours when sale and distribution prohibited. No sale or distribution of beer or other beverages of like alcoholic content shall be made between the hours of 1:00 A.M. and 6:00 A.M. Monday through Saturday. No sale or distribution of beer or other beverages of like alcoholic content shall be made between the hours of 12:00 Midnight on Saturday and 12:00 Noon on Sunday. Sales or distribution of beer or other beverages of like alcoholic content for on premises consumption by those licensees holding a "restaurant" or "tavern" license shall be allowed between the hours of 12:01 P.M. Sunday and 12:00 Midnight on Sunday. No delivery shall be made by any wholesaler or distributor between 12:00 Midnight on Saturday and 7:00 A.M. on Monday. No such beverage shall be consumed or opened for consumption on or about any premises licensed hereunder in either bottle, glass or other container on any night after the closing time (specified hereinabove) and until 6:00 A.M. the following Monday. (1975 Code, § 2-224, as replaced by Ord. #96-719, § 1, and Ord. #02-862, Oct. 2002)

8-225. Hours of operation--taverns. Every place of business holding a tavern license as defined in § 8-209 shall be closed for all purposes not later than 1:30 A.M. Monday through Saturday and not later than 12:30 A.M. on Sunday; and are allowed to reopen 12:01 P.M. Sunday and shall close by 12:00 Midnight Sunday, and no person or persons other than the owner(s) and/or employee(s) of the place of business shall be permitted upon the premises of such tavern after such closing hour and until it shall be unlawful to reopen on the next succeeding lawful business day. (1975 Code, § 2-225, as replaced by Ord. #02-863, Oct. 2002)

8-226. Sales to minors; loitering prohibited. No sale of beer or other beverages of like alcoholic content shall be made to any minor (a person under the age of twenty-one (21) years for the purposes of sales of beer), nor shall any licensee permit minors or disreputable persons to loiter around or frequent his place of business. (1975 Code, § 2-226, modified)

8-227. Unauthorized use or consumption of beverages on premises. No licensee whose license authorizes sale for consumption off the premises only, shall sell for consumption on the premises, neither shall such licensee permit on premises consumption. (1975 Code, § 2-227)

8-228. Use of premises not authorized by license. No beer or other beverages of like alcoholic content shall be manufactured, stored or sold except at the premises designated in the license therefor. (1975 Code, § 2-228)

8-229. Employment of minors. It shall be unlawful for any licensee holding a permit and license for on premises consumption of beer or other beverages of like alcoholic content, in the city, to employ any person under eighteen years of age in any conduct of such business. (1975 Code, § 2-229)

8-230. Permit required for dispensing, serving or selling beer or other beverages of like alcoholic content for on-premises consumption. All permit holders and employees of permit holders who dispense, serve or sell beer or other beverages of like alcoholic content for on premises consumption under any permit granted under this chapter must obtain by appropriate application a permit to do so from the beer board. The beer board or its duly authorized agent shall fingerprint and photograph all applicants for such a permit and shall issue an appropriate permit bearing a picture of said applicant for display in the premises for which the application is sought. Any permit issued under this section shall not be transferrable from one permit location to another. Any person submitting an application for a permit under this section shall remit an application fee in the amount of ten dollars ($10.00) for each permit. (1975 Code, § 2-230)

8-231. Licenses for on-premises consumption prohibited except where food sold. No retail license shall be granted for the sale of beer for on-premises consumption at any location other than a restaurant or other similar establishment where prepared food or meals are sold. No retail license shall be issued or granted for the sale of beer for on premises consumption at any location which possess or operates under a license for adult-oriented establishments and/or as to which any adult-oriented establishment activities are carried on. (1975 Code, § 2-231, as amended by Ord. #97-754, Dec. 1997)

8-232. <u>License for off-premises consumption prohibited in non-grocery establishments</u>. No retail license shall be granted for the sale of beer for off-premises consumption at any location other than a grocery establishment as herein defined. An establishment shall be deemed to be a grocery establishment if:

(1) A substantial portion of its gross sales, measured in terms of dollar receipts, are produced from the sale of food and grocery items as distinguished from petroleum products, hardware, sporting goods, or other non-grocery items, and

(2) A minimum inventory in food and grocery items of at least $12,000.00 at wholesale cost is maintained by such establishment. Inventories shall be valued at cost and in computing grocery sales under this section, the beer sales be included in such grocery sales. (1975 Code, § 2-232)

8-233. <u>Sale prohibited on certain premises</u>. Except as hereinafter provided, no beer or other beverages of like alcoholic content shall be sold:

(1) On any premises where dancing is permitted; or

(2) On any premises in direct connection with which sleeping quarters are provided.

Within the meaning of this section, sleeping quarters shall be considered as being in direct connection with the premises on which the sale is made, when the sleeping quarters are in the same room, or when any interior passageway, door, hall, stairway, or other interior connection, or a combination thereof, is available and is used in going to or from the place where such sale is made to such sleeping quarters. The prohibition contained in this section shall not apply to hotels having more than ten (10) rooms or to premises in direct connection with which there is only one room equipped with sleeping quarters and such room is used exclusively for the owner or operator of the business on such premises, or by a watchman for such business, and by the family of any owner, operator or watchman so occupying the premises. Provided that nothing contained herein shall be construed to apply permission for a night watchman at any premises licensed to sell beer as such decision is governed by other sections of the Red Bank City Code. (1975 Code, § 2-233)

8-234. <u>Regulating and reporting--restaurant licenses</u>. It shall be the obligation of a person holding a restaurant license, as the term "Restaurant" is defined in § 8-209 of this chapter to file quarterly reports with the city manager detailing thereon gross receipts of the restaurant and the dollar amount of and calculated percentage of gross receipts attributable to the sale of beer. Such reports shall be made on forms prepared by the city manager and filed with him not more than forty-five (45) days subsequent to March 31, June 30, September 30 and December 31 of each calendar year. Failure to timely make and file such reports shall constitute a violation of this chapter and shall subject the licensee to the penalties of this § 8-213, at the discretion of the beer

board. If a licensee shall exceed the fifty percent (50%) beer sales limitation ratio as prescribed by § 8-209 for two successive quarterly reports, he shall forthwith, and within ten (10) days of the reporting date, reapply to the board for the purpose of obtaining a tavern license as defined in § 8-209(3) and shall immediately, as of the time of the reapplication, change the method of his operation to comply with all applicable regulations pertaining to taverns while said reapplication is pending. Provided further, however, that if a restaurant licensee shall elect not to reapply for a tavern license, then, in that event, a third successive quarterly report, or any two quarterly reports in the succeeding two calendar years which shall indicate that in excess of fifty percent (50%) of gross receipts were obtained by virtue of beer sales in any two three month reporting periods, then the same shall be adequate grounds for suspension or revocation of the license as per the provisions of § 8-213, et seq. of this chapter. Upon demand, each licensee shall make available to the city manager or his designee supporting books and records for the purpose of verification of the reports. A finding, by the beer board, after notice and hearing, of intentional falsification of said reports shall be grounds for suspension or revocation of the license. (1975 Code, § 2-234)

8-235. Immoral acts prohibited at premises. It shall be unlawful for any person to appear or be on the premises of a permittee under this article so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;

(3) The actual or simulated display of the pubic hair, anus, vulva or genitals;

(4) The permitting by a permittee of any person to remain in or upon the permittee's premises who exposes to public view any portion of his or her genitals or anus; or

(5) The displaying of films or pictures depicting acts, a live performance of which is prohibited in subparagraph (1) through (4) of this section. (1975 Code, § 2-235)

8-236. Privilege tax for sale of beer. (1) Pursuant to and in conformity with Tennessee Code Annotated, § 57-5-191(b)(3) there is hereby imposed on the business of selling, distributing, storing or manufacturing beer in the City of Red Bank, a privilege tax of $100.00;

(2) Any person, firm, corporation, joint stock company, syndicate or association engaged in selling, distributing, storing or manufacturing beer shall remit the tax on January 1, 1994, and each successive January 1 to the City of Red Bank;

(3) The city manager, or his designee, shall mail written notice to each permit holder of the payment of the annual tax at least thirty (30) days prior to January 1. Notice shall be mailed to the address specified by the permit holder on its permit application. If the permit holder does not pay the tax by January 31 or within thirty (30) days after written notice of the tax was mailed, whichever is later, then the city manager shall notify the permit holder by certified mail that the tax payment is past due. If a permit holder does not pay the tax within ten (10) days after receiving notice of its delinquency by certified mail, then such permit shall be void and any such license, so voided, shall not be reinstated but such former licensee shall be required to file an application to complete the licensing process otherwise provided herein. 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, with such proration to be first made from and after January 1, 1994. (1975 Code, § 2-236)

8-237. Existing license and permit holders. Holders of valid licenses and permits to sell, distribute and manufacture beer as of the effective date of this section:

(1) Shall not be required to pay the application fee set forth in § 8-209 to maintain their permits;

(2) Shall be required to provide the city the information required on said application (see § 8-235);

(3) Shall, if the permit is held by someone other than the owner of the business establishment where beer is sold, distributed or manufactured, notify the city to substitute the owner of the establishment for the current permit holder.

The city manager, or his designee, shall on or before December 1, 1993, mail written notice to each person holding a permit as of the effective date of this section, requesting the information required by this chapter and state laws. If the permit holder does not respond within thirty (30) days after the written notice is mailed, then the city shall notify the permit holder by certified mail that a response is due. If the permit holder does not respond within ten (10) days after receiving the notice by certified mail, then the permit shall be void and any such license, so voided, shall not be reinstated but such former licensee shall be required to file an application to complete the licensing process otherwise provided herein. (1975 Code, § 2-237)

8-238. Duty to return permit. A permit holder must return a permit to the city within fifteen (15) days of termination of the business, change in

ownership, relocation of the business or change of the businesses's name; provided, however that notwithstanding the failure to return a beer permit, a permit shall expire on the termination of the business, change in ownership, relocation of the business or change in the business's name. (1975 Code, § 2-238)

8-239. Data required from permit applicants. (1) In order to receive a permit, an applicant must establish that:

(a) No beer will be sold except at a place where such sale will not cause congestion or traffic or interference with schools, churches or other places of public gathering, or otherwise interfere with public health, safety and morals;

(b) No sale will be made to minors;

(c) No person, firm, corporation, joint-stock company, syndicate or association having at least five percent (5%) ownership interest in the applicant has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;

(d) No person employed by the applicant in such distribution or sale has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the last ten (10) years; and

(e) No sale will be made for on-premises consumption unless the application so states and except upon compliance with all other provisions hereof governing taverns and restaurants.

(2) An applicant shall disclose the following information in his application:

(a) Name of the applicant;

(b) Name of the applicant's business;

(c) Location of business by street address or other geographical description to permit an accurate determination of conformity with the requirements of this section;

(d) If beer will be sold at two (2) or more restaurant or other businesses pursuant to the same permit as provided in Tennessee Code Annotated, § 57-5-101(b) (3), a description of all such businesses;

(e) Persons, firms, corporations, joint-stock companies, syndicates, or associations having at least a five percent (5%) ownership interest in the applicant;

(f) Identity and address of a representative to receive annual tax notices and any other communication from the county legislative body or its committee;

(g) That no person, firm, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the

applicant nor any person to be employed in the distribution or sale of beer has been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years;

(h) Whether or not the applicant is seeking a permit which would allow the sale of beer either for on-premises consumption or for off-premises consumption, or for a tavern or restaurant license. If a holder of a beer permit for either off-premises consumption or on-premises consumption desires to change his method of sale, he shall apply to the county legislative body or committee appointed by such body for a new permit;

(i) That all sales, and deliveries, of such beer or beverage, shall be consummated upon the premises for which the license is issued, and that no owner or operator, nor any agent or employee of either, shall remove from the premises any such beer or beverage from the said premises for sale, resale, or delivery;

(j) That in the place of business where such beverages will be sold or distributed proper sanitary facilities shall be provided;

(k) The percentage of the actual, or anticipated, gross receipts of the business derived from the sale of beer. Where such application is for an existing business, the percentage provided shall be the actual percentage for the preceding twelve (12) months, or since the establishment of the business, whichever is shorter; and

(l) Such other relevant information as may be required by the county legislative body or its committee. An applicant or permit holder shall be required to amend or supplement its application promptly if a change in circumstances affects the responses provided in its application. (1975 Code, § 2-239, modified)

8-240. Disqualification for false statement. Any applicant making a false statement in the application shall forfeit his permit and shall not be eligible to receive any permit for a period of ten (10) years. (1975 Code, § 2-240)

8-241. Violations. Violations of the provisions hereof, in addition to any administrative remedies provided herein, shall also be punishable, upon conviction, of up to thirty (30) days in jail and a fine of up to $500.00. (1975 Code, § 2-241)

CHAPTER 3

CONSUMPTION OF ALCOHOL BY MEANS OF "BROWN BAGGING"

SECTION

8-301. Brown bagging and corkage, generally.
8-302. Definitions.
8-303. Beer board and police to enforce chapter.
8-304. Hours regulated.
8-305. Sales to incapacitated or incompetent persons prohibited.
8-306. Employment of minors.
8-307. Immoral acts prohibited at premises.
8-308. Telephone and reports of disorders.
8-309. Permit; required.
8-310. Application; fee.
8-311. Location to be designated.
8-312. Grounds for refusal.
8-313. When beer board may issue.
8-314. To be posted.
8-315. Not transferable.
8-316. Grounds for revocation or suspension.

8-301. Brown bagging and corkage, generally. The provisions of this chapter shall apply to all persons who operate an establishment selling setups for mixed drinks or provide corkage setups for wine, and who permit bagging in their establishment. It shall not apply to those persons or businesses only having a beer permit for off premises consumption as provided in title 8, chapter 2, of the city code or having a permit for the sale of alcoholic beverages for consumption on the premises issued by the alcoholic beverage commission of the state under the provisions of Tennessee Code Annotated, § 57-4-201. It shall specifically apply to those persons or businesses having a beer permit for on premises consumption as provided in title 8, chapter 2 of the city code. (as added by Ord. #11-966, Aug. 2011)

8-302. Definitions. As used in this chapter, the following definitions shall apply:

(1) "Brown bag" or "brown bagging" shall mean the practice of patrons, customers or guests bringing alcoholic beverages upon their premises or any person selling setups for mixed drinks or providing corkage services for wine.

(2) "Corkage" shall mean the practice of providing patrons, customers, or guests with opening devices and glasses in connection with the consumption of wine.

(3) "Person selling setups for mixed drinks" shall mean and include any person deriving receipts from the sale of setups for mixed drinks consumed on the premises.

(4) "Set ups for mixed drinks" shall mean and include sales of water, soft drinks, fruit juices, or any item capable of being used to prepare a mixed drink at such establishment. (as added by Ord. #11-966, Aug. 2011)

8-303. Beer board and police to enforce chapter. (1) The beer board shall issue permits, and revoke or suspend licenses issued for the activities described in § 8-301, et seq., except where such action would be inconsistent with any specific provision of this chapter.

(2) The city police and building inspector shall enforce all laws, ordinances and rules regulations establishments selling setups for mixed drinks, wine consumption, or permitting brown bagging. (as added by Ord. #11-966, Aug. 2011)

8-304. Hours regulated. No permittee under this chapter shall sell any setup for purposes of mixing with alcoholic beverages, provide corkage services, or permit any alcoholic beverages to be consumed on the premises between the hours of 1:00 A.M. and 6:00 A.M. on Monday through Saturday and between the hours of 12:01 A.M. and 12:01 P.M. on Sunday. The permittee shall not permit or suffer the presence of any alcoholic beverages on the premises during such hours. (as added by Ord. #11-966, Aug. 2011)

8-305. Sales to incapacitated or incompetent persons prohibited. No permittee under this chapter shall permit or allow any intoxicated person to be on the premises or to dispense, serve, sell setups or provide corkage to such persons. (as added by Ord. #11-966, Aug. 2011)

8-306. Employment of minors. No person under the age of eighteen (18) years shall be permitted to dispense, serve, sell setups, or provide corkage in any establishment which has been issued a permit under this chapter without being in full compliance with Tennessee Code Annotated, § 57-3-704. (as added by Ord. #11-966, Aug. 2011)

8-307. Immoral acts prohibited at premises. It shall be unlawful for any person to appear or be on the premises of a permittee under this chapter so costumed or dressed that one (1) or both breasts are wholly or substantially exposed to public view, and it shall be unlawful for any permittee to permit or allow any such person to appear or be in or on the premises. Further, it shall be unlawful to perform, or for the permittee to allow to be performed, on the premises any of the following acts or kinds of conduct:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(2) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

(3) The actual or simulated displaying of the pubic hair, anus, vulva or genitals;

(4) The permitting by a permittee of any person to remain in or upon the licensed premises who exposes to public view any portion of his or her genitals or anus; or

(5) The displaying of films or pictures depicting acts, a live performance of which is prohibited by the sections quoted above. (as added by Ord. #11-966, Aug. 2011)

8-308. Telephone and reports of disorders. All permittees are required to maintain a telephone in good working order on the premises and to report all fights or other public disorders occurring on such premises immediately, whether or not participants in such disorder have left the premises. (as added by Ord. #11-966, Aug. 2011)

8-309. Permit; required. No person shall engage in the business of operating establishments selling setups for mixed drinks, providing corkage services, or permit brown bagging on any premises without having been issued a permit therefor. Such permit shall be obtained upon application and payment of fees as hereinafter provided. A duly issued permit shall allow such establishments to permit its patrons, customers, or guests to bring alcoholic beverages upon its premises for purposes of personal consumption or to otherwise permit brown bagging. (as added by Ord. #11-966, Aug. 2011)

8-310. Application; fee. (1) All applications for a permit to all setups for mixed drinks or to permit brown bagging shall be filed with the city recorder. The police department shall make an investigation of the applicant and determine whether or not the location meets all the requirements of this chapter, and report all findings to the beer board. The beer board shall make such other and further investigation it deems advisable and shall issue or deny a permit in its discretion.

(2) The application shall be accompanied by a fee of one hundred dollars ($100.00) for use in offsetting the expense of investigating the applicant and an annual renewal fee of fifty dollars ($50.00) every year thereafter to be paid on or before January 1 of each year. (as added by Ord. #11-966, Aug. 2011)

8-311. Location to be designated. The location of the premises at which the business of the permittee will be conducted shall be designated in the permit and in the application therefor. (as added by Ord. #11-966, Aug. 2011)

8-312. Grounds for refusal. (1) No permit shall be issued where the operation of the business conducted thereunder may cause congestion of traffic, interfere with schools, churches, parks or other places of public assembly, or otherwise interfere with the public health, safety and morals, or where this article or any other law would be violated, including, but not limited to, the zoning laws. No permit shall be issued to any person or premises wherein a permit to sell beer or other alcoholic beverages or a permit under this chapter has been revoked within three (3) years or is under suspension.

(2) No such establishment shall be located within three hundred feet (300'), as measured from any doorway entrance of the applicant regularly used for public ingress and egress to the nearest doorway entrance to the school, church, or other place of public gathering to the nearest corner of the licensed establishment.

(3) All applicants for a permit shall be required in their application to list and identify all schools, churches, or other places of public gathering which are believed to be within the distance specified in subsection (2) of this chapter.

(4) The beer board may, in its discretion, require any applicant for a permit to submit as a part of his application a survey by a duly licensed surveyor when a school, church, or other place of public assembly is in close proximity to the premises; and when, because of limiting conditions such as applicant's topography, the accuracy of other methods of measurement is deemed to be inadequate and a survey is deemed reasonably necessary to establish an accurate distance relative to the applicant's entitlement to a permit under the provisions of this chapter.

(5) To the extent that it shall be called to the attention of the beer board that it may have issued any permit to a location not qualified under the provisions of this section, then it shall be the duty of the beer board, upon notice to the permittee and an opportunity for the permittee to be heard, to revoke any permits which have been issued in violation of this chapter. (as added by Ord. #11-966, Aug. 2011)

8-313. When beer board may issue. The beer board shall issue no permit until the application therefor has been approved following a public hearing at regularly scheduled beer board meeting with reasonable public notice. (as added by Ord. #11-966, Aug. 2011)

8-314. To be posted. Any permit issued under this chapter shall be posted in a conspicuous place on the premises of the permittee. (as added by Ord. #11-966, Aug. 2011)

8-315. Not transferable. No permit issued by the beer board under the provisions of this chapter shall be transferable from one (1) person to another. (as added by Ord. #11-966, Aug. 2011)

8-316. Grounds for revocation or suspension. (1) The beer board shall revoke or suspend, and shall be charged with the duty of revoking or suspending, any permits issued by it, upon notice to the permittee and a hearing thereon, for any violation of any provisions of this chapter or any other ordinance, state law or regulation or federal law of regulation governing the operation of such establishments or when the permittee:

(a) Operates a disorderly place; or

(b) Allows gambling on the premises; or

(c) Allows fighting or boisterous or disorderly conduct on the premises; or

(d) Has been convicted by final judgment of a court of competent jurisdiction of a crime involving moral turpitude; or

(e) Allows minors to congregate about the premises after normal hours of business; or

(f) Sells or transfers the equipment or assets of the business authorized by has permit to another for the purpose of conducting the business at the same location; or

(g) Has made a false statement of a material fact in any application or notice to the board; or

(h) Sells, furnishes, disposes of or gives, or causes to be sold, furnished, disposed of or given, any setup to any person under the age of twenty-one (21) years when it reasonably appears that such person under the age of twenty-one (21) years will use the setup for purposes of mixing a drink with any alcoholic beverages; or

(i) Denies access to any portion of the premises wherein the use of setups for mixing alcoholic beverages is permitted, whether or not that portion of the premises issued specifically for the sale of setups; or

(j) Has been convicted by final judgment of any court of competent jurisdiction of any crime or misdemeanor involving the sale of consumption of beer or alcoholic beverages; or

(k) Allows violation of any provision of this chapter to occur on the licensed premises; or

(l) Allows violations of the rules and regulations of the health department; resulting in revocation or suspension of any permit issued by the health department; or

(m) Consumes or permits any employee to consume any alcoholic beverages while on the premises, or to be intoxicated while on the premises; or

(n) Allows litter or debris to accumulate in or around the premises, including the sidewalks and streets adjacent thereto; and/or fails to provide and maintain adequate solid waste containers and resolve nuisance problems in connection with such containers; or

(o) Allows any server under eighteen (18) years of age to serve any set-ups without being in full compliance with Tennessee Code Annotated, § 57-3-704.

(2) The beer board may also, in its discretion, revoke a permit for due cause not specified herein. (as added by Ord. #11-966, Aug. 2011)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER

1. CLOSING OUT SALES.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. TAXICABS.
5. POOL ROOMS.
6. MECHANICAL AMUSEMENT DEVICES.
7. WRECKER SERVICE.
8. ADVERTISING SIGNS, ADMINISTRATION AND ENFORCEMENT.
9. SECONDHAND DEALERS.
10. MASSAGE PARLORS AND TECHNICIANS.
11. PROFESSIONAL TREE TRIMMERS AND LANDSCAPING.
12. CABLE TELEVISION.
13. ADULT-ORIENTED ESTABLISHMENTS.
14. OUTDOOR STORAGE AND DISPLAY OF MERCHANDISE; SIDEWALK SALES, GARAGE SALES AND YARD SALES.
15. MOBILE FOOD VEHICLES AND PUSHCARTS.
16. SHORT-TERM RESIDENTIAL RENTAL UNITS.

CHAPTER 1

CLOSING OUT SALES

SECTION

9-101. Definitions.
9-102. License required for sale.
9-103. Application for license.
9-104. Issuance of license.
9-105. Renewal license.
9-106. Application fee.
9-107. Contents of advertising.
9-108. Display of license - books and records.
9-109. Rules and regulations.

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[1]Municipal code references
Building, plumbing, wiring and housing regulations: title 12.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

9-110. Suspension or revocation of license.
9-111. Violations of sales regulations.
9-112. Exemptions from regulations.

9-101. Definitions. The following terms wherever used or referred to in §§ 9-101--9-112 shall have the following meanings unless a different meaning appears from the context:

(1) "Sales" -- The sale or any offer to sell to the public goods, wares and merchandise of any and all kinds and descriptions on hand and in stock in connection with a declared purpose, as set forth by advertising, on the part of the seller that such sale is anticipatory to the termination, closing, liquidation, revision, wind-up, discontinuance, conclusion or abandonment of the business in connection with such sale. It shall also include any sale advertised to be a "fire sale," "reorganization sale," "creditor's sale," "trustees sale," "adjustment sale," "liquidation sale," "insurance salvage sale," "administrator's sale," "insolvent sale," "mortgage sale," "assignee's sale," "adjusters sale," "receiver's sale," "loss- of-lease sale," "wholesaler's closeout sale," "creditor's committee sale," "forced out-of-business sale," "going-out-of-business sale," "removal sale," and any and all sales advertised in such manner as to reasonably convey to the public that upon disposal of the stock of goods on hand, the business will cease and be discontinued.

(2) "Publish," "publishing," "advertisement," "advertising" shall include any and all means of every kind of conveying to the public notice of sale or notice of intention to conduct a sale, whether by word of mouth, by newspaper advertising, by magazine advertisement, by handbill, by written notice, by printed notice, by printed display, by billboard display, by poster, by radio announcement and any and all means including oral, written or printed.

(3) "License" -- A license issued pursuant to §§ 9-101--9-112.

(4) "Licensee" -- Any person to whom a license has been issued pursuant to §§ 9-101--9-112.

(5) "Recorder" -- The city recorder or such official designated by the city ordinance, to be appointed by the city.

(6) "Inspector" -- An inspector designated by the city manger. (1975 Code, § 5-101)

9-102. License required for sale. No person, firm or corporation shall hereafter publish or conduct any sale of the type defined in § 9-101 without a license therefor. (1975 Code, § 5-102)

9-103. Application for license. The recorder is hereby authorized and empowered to supervise and regulate sales or special sales defined in § 9-101 and to issue appropriate licenses or license therefor. Such licenses or license shall be issued in the discretion of the recorder upon the written application in a form approved by the recorder and verified by the person who, or by an officer

of the corporation which intends to conduct such sale. Such application shall contain a description of the place where such sale is to be held, the nature of the occupancy, whether by lease or sublease and the effective date of the termination of such occupancy, the means to be employed in publishing such sale, together with the proposed language comment in any advertisements. Such application shall further contain, as part thereof, an itemized list of the goods, wares and merchandise to be offered for sale, the place where such stock was purchased or acquired, and if not purchased, the matter of such acquisition. Such application shall contain any additional information as the recorder may require. (1975 Code, § 5-103)

9-104. Issuance of license. Upon receipt of such application and payment of the fee hereinafter prescribed, the recorder shall cause the same to be examined and investigated. If after such investigation the recorder is satisfied as to the truth of the statements contained in such application and as to the form and content of the advertising to be used in construction with such sale, he may then issue a license permitting the publication and conduct of such sale. Such license shall be for a period of not exceeding thirty (30) days. (1975 Code, § 5-104)

9-105. Renewal license. Upon satisfactory proof by the licensee that the stock itemized in the original application has not been disposed of, the recorder may renew such license for an additional thirty (30) day period upon payment of the prescribed renewal fee. Such proof for a renewal license shall be furnished in a form to be issued by the recorder. Said renewal application shall contain an itemized list of stock on hand and the same shall be verified by the applicant. The recorder shall cause the same to be examined and investigated, and if satisfied, as to the truth of the statements therein contained, the recorder may issue a renewal license for a period not exceeding thirty (30) days, provided, however, that not more than three (3) such renewals shall be granted for any such sale for the same location within a period of one (1) year from date of issuance of the first license. (1975 Code, § 5-105)

9-106. Application fee. Upon filing an original application or a renewal application for a license to advertise and conduct a sale or special sale, as hereinbefore defined, the applicant shall pay to the city a fee in the sum of twenty-five dollars ($25.00). If any application or renewal application be disapproved, said payment shall be forfeited to the city as and for the cost of investigating the statements contained in such application or renewal application. (1975 Code, § 5-106)

9-107. Contents of advertising. All advertisements or advertising and the language contained therein shall be in accordance with the purpose of the sale as stated in the application pursuant to which a license was issued and the

wording of such advertisements shall not vary from the wording as indicated in the application. Such advertising shall contain a statement in these words and no others:

"Sale held pursuant to Permit No._____ of City of Red Bank granted the _____ day of _____" and in such blank spaces shall be indicated the permit number and the requisite dates. (1975 Code, § 5-107)

9-108. Display of license - books and records. Upon commencement of any sale, as hereinbefore defined, the license issued by the recorder shall be prominently displayed near the entrance of the premises. A duplicate of the original application and stock list pursuant to which license was issued, shall at all times be available to the recorder or to inspectors designated by the city manager and the license shall permit such inspectors to examine all merchandise in the premises for comparison with stock list. Suitable books and records as prescribed by the recorder shall be kept by the licensee and shall be at all times available to the inspectors. At the close of each business day the stock list attached to the application shall be revised and those items disposed of during such day shall be marked thereon. (1975 Code, § 5-108)

9-109. Rules and regulations. The recorder is further empowered to make such rules and regulations for the conduct and advertisement of such sale or special sale as in his opinion will serve to prevent deception and to protect the public. (1975 Code, § 5-109)

9-110. Suspension or revocation of license. The recorder shall have power to suspend or revoke at any time any license granted in accordance with §§ 9-101--9-112. (1975 Code, § 5-110)

9-111. Violations of sales regulations. Any person who shall violate, neglect or refuse to comply with any of the provisions of §§ 9-101--9-112, shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars ($500.00) or by imprisonment not exceeding thirty (30) days or both, such fine and imprisonment. (1975 Code, § 5-111)

9-112. Exemptions from regulations. The provisions of §§ 9-101--9-112 shall not apply to or affect the following persons:

(1) Persons acting pursuant to an order or process of court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officers such as sheriffs and marshals.

(3) Duly licensed auctioneers, selling at auction. (1975 Code, § 5-112)

CHAPTER 2

PEDDLERS, ETC.[1]

SECTION

9-201. Permit required.
9-202. Exemptions.
9-203. Application fee.
9-204. Issuance or refusal of permit.
9-205. Appeal.
9-206. Bond.
9-207. Loud noises and speaking devices.
9-208. Use of streets.
9-209. Exhibition of permit.
9-210. Policemen to enforce.
9-211. Revocation or suspension of permit.
9-212. Reapplication.
9-213. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1975 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1975 Code, § 5-202)

9-203. Application fee. At the time of the filing of the application, a fee of twenty-five dollars ($25.00) shall be paid to the municipality to cover the cost of investigating the facts stated in the application and in order to cover the administrative expenses of the collection of the state minimum business tax. (1975 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city manager within seventy-two (72) hours.

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[1]Municipal code reference
Privilege taxes: title 5.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city manager shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city manager shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city manager shall keep a permanent record of all permits issued. (1975 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city manager in the denial of a permit shall have the right to appeal to the governing body. Such appeal shall be taken by filing with the city manager within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The city manager shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1975 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city manager a surety bond running to the municipality in the amount of one thousand dollars ($1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of this municipality and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the municipality that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the municipality doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1975 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks or other public places of the municipality or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places,

for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1975 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1975 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1975 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1975 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the governing body after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city manager in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the city manager may suspend a permit pending the revocation hearing. (1975 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1975 Code, § 5-212)

9-213. <u>Expiration and renewal of permit</u>. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for a period of fourteen (14) days only. An application for a renewal shall be made substantially in the same form as an original application. (1975 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

9-301. Permit required.
9-302. Prerequisites for a permit.
9-303. Denial of a permit.
9-304. Exhibition of permit.
9-305. Soliciting in street prohibited.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city manager authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1975 Code, § 5-301)

9-302. Prerequisites for a permit. The city manager shall issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1975 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the governing body if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1975 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1975 Code, § 5-304)

9-305. Soliciting in street prohibited. No person shall stand on or in proximity to a street or roadway, for the purpose of slowing or stopping any vehicle to solicit or to accept contributions, charitable or otherwise, from the occupants thereof, nor for the purpose of soliciting or accepting contributions for charitable or other purposes from the occupants of any vehicle already slowed or stopped. (1975 Code, § 5-305)

CHAPTER 4

TAXICABS[1]

SECTION

9-401. Definitions.
9-402. Certificate of public convenience and necessity required.
9-403. Application for certificate.
9-404. Public hearing.
9-405. Issuance of certificate.
9-406. Indemnity bond or liability insurance required.
9-407. Transfer of certificate.
9-408. Suspension and revocation of certification.
9-409. Appeals.
9-410. Taxicab driver's license.
9-411. Application for driver's license.
9-412. Examination of applicant.
9-413. Police investigation of applicant.
9-414. Consideration of application.
9-415. Application required to be rejected, when.
9-416. Issuance of license; duration.
9-417. Display of license.
9-418. Driver's conduct.
9-419. Extension and revocation of license.
9-420. Failure to comply with city, state and federal laws.
9-421. Records of licenses.
9-422. Vehicles; equipment and maintenance.
9-423. Designation of taxicabs.
9-424. Taximeter required.
9-425. Rates of fare; rate card required.
9-426. Receipts.
9-427. Refusal of passenger to pay legal fare.
9-428. Solicitation, acceptance and discharge of passengers.
9-429. Fees.
9-430. Open stands; establishment; use.
9-431. Call box stands; establishment; use.
9-432. Prohibitions of other vehicles.
9-433. Taxicab service.
9-434. Manifests.
9-435. Holder's records and reports.

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[1]Municipal code reference
Privilege taxes: title 5.

9-436. Advertising.
9-437. Police department; duty to enforce chapter.

9-401. Definitions. The following words and phrases when used in this chapter shall have the meanings as set out herein:

(1) "Call box stand." A place alongside a street, or elsewhere where the city manager has authorized a holder of a certificate of public convenience and, necessity to install a telephone or call box for the taking of calls and the dispatching of taxicabs.

(2) "Certificate." A certificate of public convenience and necessity issued by the City of Red Bank authorizing the holder thereof to conduct a taxicab business in said city.

(3) "Cruising." The driving of a taxicab on the streets, alleys, or public places of the City of Red Bank in search of or soliciting prospective passengers for hire.

(4) "Driver's license." The permission granted by the City of Red Bank to a person to drive a taxicab upon the streets of said city.

(5) "Holder." A person to whom a certificate of public convenience and necessity has been issued.

(6) "Manifest." A daily record prepared by a taxicab driver of all trips made by said driver showing the time and place of origin, destination, number of passengers, and the amount of fare of each trip.

(7) "Open stand." A public place alongside the curb of a street or elsewhere in the City of Red Bank which has been designated by the city manager as reserved exclusively for the use of taxicabs.

(8) "Person." An individual, corporation, partnership, association or other legal entity.

(9) "Rate card." A card issued by the city manager for display in each taxicab which contains the rates of fare then in force.

(10) "Street." Any street, alley, avenue, court, lane, or public place in the City of Red Bank and used by the public, whether actually dedicated to the public and accepted by the proper authorities or otherwise.

(11) "Taxicab." A motor vehicle regularly engaged in the business of carrying passengers for hire, having a seating capacity of not more than five (5) persons, exclusive of the driver, and not operated on a fixed route.

(12) "Taximeter." A meter instrument or device attached to a taxicab which measures mechanically the distance driven and the waiting time upon which the fare is based.

(13) "Waiting time." The time when a taxicab is not in motion from the time of acceptance of a passenger or passengers to the time of discharge, but does not include any time that the taxicab in not in motion if due to any cause other than the request, act or fault of the passenger or passengers. (1975 Code, § 5-401)

9-402. Certificate of public convenience and necessity required. No person shall operate or permit a taxicab owned or controlled by him to be operated as a vehicle for hire upon the streets of Red Bank without having first obtained a certificate of public convenience and necessity from the city. (1975 Code, § 5-402)

9-403. Application for certificate. An application for the certificate shall be filed with the city manager upon forms provided by the city. The application shall be verified under oath and shall furnish the following information:

(1) The name and address of the applicant.

(2) Marital status.

(3) The financial status of the applicant, including the amounts of all unpaid judgments against the applicant and the nature of the transactions or acts resulting in said judgments.

(4) The experience of the applicant in the transportation of passengers.

(5) Any facts which the applicant believes tend to prove that public convenience and necessity require the granting of a certificate.

(6) The number of vehicles to be operated or controlled by the applicant and the location of proposed depots and terminals.

(7) The color scheme or insignia to be used to designate the vehicle or vehicles of the applicant.

(8) Such other information as the City of Red Bank may require. (1975 Code, § 5-403)

9-404. Public hearing. Upon the filing of an application, the city manager shall fix a time and place for a public hearing thereon before the board of commissioners of the City of Red Bank. Notice of such hearing shall be given to the applicant and to all persons to whom a certificate of public convenience and necessity have heretofore been issued. Due notice shall also be given to the general public by posting a notice of such hearing at the city hall, and, at the branch post office within the city. Any interested person may file with the city manager a memorandum in the support of or in opposition to the issuance of a certificate. Failure to give notice in accordance herewith shall not invalidate any proceedings held hereunder. (1975 Code, § 5-404)

9-405. Issuance of certificate. If the board of commissioners finds that further taxicab service in the City of Red Bank is required by the public convenience and necessity and that the applicant is fit, willing, and, able to perform such public transportation and to conform to the provisions of this chapter and the rules promulgated by the city manager then the city manager, upon direction of the board of commissioners, shall issue a certificate stating the name and address of the applicant, the number of vehicles authorized under

said certificate and the date of issuance. Otherwise, the application shall be denied.

In making the above findings, the board of commissioners shall take into consideration the number of taxicabs already in operation, whether existing transportation is adequate to meet the public need, the probable effect of increased service on local traffic conditions, and the character, experience, and responsibility of the applicant. (1975 Code, § 5-405)

9-406. Indemnity bond or liability insurance required. No certificate shall be issued or continued in operation unless there is in full force and effect an indemnity bond or insurance policy covering each vehicle authorized in the amount of ten thousand dollars ($10,000) for bodily injury to any one person; in the amount of twenty thousand dollars ($20,000) for injuries to more than one person which were sustained in the same accident; and in the amount of five thousand dollars ($5,000) for property damages resulting from any one accident. Said bond or insurance policy shall inure to the benefit of any person who shall be injured or who shall sustain damage to property proximately caused by the negligence of a holder, his servants, or agents. Said indemnity bond or insurance policy shall be filed in the office of the city manager. It shall be issued or executed by some public liability insurance company authorized to do business in the State of Tennessee which has been approved by the board of commissioners of the City of Red Bank, or approved for said board by the city attorney. Said indemnity bond or insurance policy shall contain the following minimum provisions:

(1) That any person or persons who may recover final judgment for personal injury or property damages shall have a right of action on said bond or insurance policy in the event the owner or operator of the taxi does not pay the same within thirty (30) days after final judgment.

(2) That said indemnity bond or insurance policy may not be canceled by either the insurer or the insured until after twenty (20) days written notice of intention to cancel is given the city manager of the City of Red Bank.

(3) That said bond or insurance policy shall not be withdrawn from the office of the city manager within the space of one (1) year from cancellation.

(4) That there shall be a continuing liability thereunder for the full amount of said bond or insurance policy, notwithstanding any recovery thereon.

(5) That the insurer will not be relieved from liability on account of nonpayment of premium, failure to renew the license at the end of the year, nor for any act or omission of the named insured. (1975 Code, § 5-406)

9-407. Transfer of certificate. No certificate of public convenience and necessity may be sold, assigned, mortgaged, or otherwise transferred. Upon the death, or the cessation of business, of any holder, the certificate shall be surrendered to the city. (1975 Code, § 5-407)

9-408. Suspension and revocation of certification. A certification issued under the provisions of this chapter may be revoked or suspended by the city manager if the holder thereof has:

(1) Violated any of the provisions of this chapter.

(2) Discontinued operations for more than ninety (90) days.

(3) Violated any ordinances of the City of Red Bank, or the laws of the United States or the State of Tennessee, the violations of which reflect unfavorably on the fitness of the holder to offer public transportation.

Prior to suspension or revocation, the holder shall be given notice of the proposed action to be taken and shall have an opportunity to be heard. (1975 Code, § 5-408)

9-409. Appeals. Any person who deems himself aggrieved by the action of the city manager in suspending or revoking, or in refusing to suspend or revoke any certificate, may appeal the decision by petition addressed to the board of commissioners and filed with the city manager not more than ten (10) days following the manager's action. Such appeal shall be heard at the next regular meeting of the board of commissioners following the filing of the petition with the city manager. The action of the board of commissioners upon the appeal shall be final. (1975 Code, § 5-409)

9-410. Taxicab driver's license. No person shall operate a taxicab for hire upon the streets of the City of Red Bank, and no person who owns or controls a taxicab shall permit it to be so driven, and, no taxicab licensed by the City of Red Bank shall be so driven at any time for hire, unless the driver of said taxicab shall have first obtained and shall have then in force a taxicab driver's license issued under the provisions of this chapter. (1975 Code, § 5-410)

9-411. Application for driver's license. An application for a taxicab driver's license shall be filed with the city manager on the forms provided by the City of Red Bank. The application shall be verified under oath and shall contain the following information:

(1) The names and addresses of four (4) residents of the City of Red Bank who have known the applicant for a period of twelve (12) months or more and who will vouch for his sobriety, honesty, and good moral character.

(2) The experience of the applicant in the transportation of passengers.

(3) The educational background of the applicant.

(4) The name, address, age, height, color of eyes and hair, length of residence in the city, and marital status of the applicant.

(5) A concise history of the applicant's previous residences and employments for five (5) years preceding the making of the application.

(6) The number of the applicant's current motor vehicle special chauffeur's permit issued by the State of Tennessee.

(7) Each application shall be accompanied by a certificate from a reputable physician of the City of Red Bank certifying that, in his opinion, the applicant is not afflicted with any disease or infirmity which might make him an unsafe or unsatisfactory driver; and, by three (3) recent photographs of himself of a size which may be easily attached to the permit or license. One (1) photograph shall be attached to the license or permit issued, and the remaining two (2) shall be filed with the city. The photograph attached to the license or permit shall be so attached that it cannot be removed and another photograph substituted without detection. (1975 Code, § 5-411)

9-412. Examination of applicant. Before any application is finally passed upon by the city manager the applicant shall be required to pass a satisfactory examination as to his knowledge of the traffic laws and ordinances of the City of Red Bank; his general knowledge of the streets of the city; his competency as a driver of a motor vehicle; and, he shall be required to exhibit a current motor vehicle special chauffeur's permit issued by the State of Tennessee. (1975 Code, § 5-412)

9-413. Police investigation of applicant. The police department shall conduct an investigation of each applicant for a taxicab driver's license and a report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application for the consideration of the city manager. In connection with the examination, the chief of police, or his agent, may require the applicant to demonstrate his skill and ability to safely handle a motor vehicle by driving it through a crowded section of the city or any other prescribed test course accompanied by an inspector designated by the chief of police. (1975 Code, § 5-413)

9-414. Consideration of application. The city manager shall, upon receipt of an application and the reports and certificate required to be attached thereto, approve or reject the application. If the application is rejected, the applicant may request a personal appearance before the city commission to offer evidence why his application should be reconsidered. This request shall be in writing and filed with the city manager and shall be heard at the next regular meeting of the commission after said filing. (1975 Code, § 5-414)

9-415. Application required to be rejected, when. The city manager shall be required to reject any application when any one of the following facts is established:

(1) If the applicant has not attained his eighteenth birthday.

(2) When the applicant has been convicted of a felony.

(3) When the applicant has been convicted of a misdemeanor, other than a traffic violation, at any time within two (2) years preceding the date of filing the application.

(4) When the applicant has been convicted of any three (3) misdemeanors, other than overtime parking, but including traffic violations, within two (2) years preceding the filing of the application.

(5) When the applicant fails to pass any examination given to him under the provisions of this chapter. (1975 Code, § 5-415)

9-416. Issuance of license; duration. Upon approval of an application for a taxicab driver's license, the city manager shall issue a license to the applicant which shall bear the name, address, color, age, signature and photograph of the applicant. Such license shall be in effect for the remainder of the calendar year. A license for every calendar year thereafter shall issue upon the payment of the required annual fee hereinafter set forth, unless the license for the preceding year has been revoked. (1975 Code, § 5-416)

9-417. Display of license. Every driver licensed under this chapter shall post his driver's license in such a place as to be in full view of all passengers while said driver is operating the taxicab, whether in day or night. (1975 Code, § 5-417)

9-418. Driver's conduct. It shall be the duty of every person driving or operating a taxicab to be courteous and gentlemanly; to refrain from swearing, loud talking, or boisterous conduct; to drive his motor vehicle carefully and in full compliance with all traffic laws and ordinances and regulations and orders of the Red Bank police department or any of its members; to promptly answer all court notices, traffic violation notices or police notices; and, to deal honestly with the public and with his employer. No driver shall imbibe alcoholic beverages of any kind or to any extent while operating a taxicab within the corporate limits of this city, nor within six (6) hours prior to entering upon his duty as a taxicab driver. (1975 Code, § 5-418)

9-419. Extension and revocation of license. The city manager is hereby given the authority to suspend the driver's license issued under this chapter upon the driver's refusal or failure to comply with this chapter, said period of suspension to list for a period of not more than thirty (30) days. The city manager is also given authority to revoke any driver's license for failure to comply with the provisions of this chapter. However, a license may not be revoked unless the driver has received a notice and had an opportunity to present evidence in his behalf. Any person affected by such revocation shall have the right to appeal the decision of the city manager to the board of commissioners in the same manner as set forth in § 9-409 hereof. (1975 Code, § 5-419)

9-420. Failure to comply with city, state and federal laws. Every driver licensed under this chapter shall comply with all city, state and federal

laws. Failure to do so will justify the city manager in suspending or revoking a license. (1975 Code, § 5-420)

9-421. Records of licenses. The city manager shall keep a complete and public record of the issuance of each taxicab driver's license, and all renewals, suspensions, complaints, violations and revocations thereof, which record shall be filed with the original application for such permit, and which shall be open to public inspection during regular office hours. (1975 Code, § 5-421)

9-422. Vehicles; equipment and maintenance. Prior to the use and operation of any vehicle under the provisions of this chapter said vehicle shall be thoroughly examined and inspected by the police department and found to comply with such reasonable rules and regulations as may be prescribed by the city manager. These rules and regulations shall be promulgated to provide safe transportation and shall specify such safety equipment and regulatory devices as the city manager shall deem necessary therefor. When the police department finds that the vehicle has met the standards established by the city manager, the manager shall issue a license to that effect, which shall also state the authorized seating capacity of the vehicle, upon payment of the fee hereinafter set forth.

Every vehicle operating under this chapter shall be periodically inspected by the police department at such intervals as shall be established by the city manager to insure the continued maintenance of safe operating conditions.

Every vehicle operating under this chapter shall be kept in a clean and sanitary condition according to the rules and regulations promulgated by the city manager. (1975 Code, § 5-422)

9-423. Designation of taxicabs. Each taxicab shall bear on the outside of each rear door, in painted letters not less than three (3) inches nor more than five (5) inches in height, the name of the owner, and the city license number of such vehicle, and in addition, may bear an identifying design approved by the city.

No vehicle covered by the terms of this chapter shall be licensed whose color scheme, identifying design, monogram, or insignia used thereon shall, in the opinion of the city manager, conflict with or imitate that used on a vehicle or vehicles already operating under this chapter, or operating under an ordinance of another city geographically located so as to cause confusion or misunderstanding among the general public or in such a manner as to be misleading or tending to deceive or defraud the public. Also, if, after a license has been issued for a taxicab hereunder, the color scheme, identifying design, monogram, or insignia thereof is changed so as to be, in the opinion of the city manager, in conflict with or an imitation of that used by any other person, owner or operator, in such a manner as to be misleading or tending to deceive

the public, the license or certificate covering such taxicab or taxicabs shall be suspended or revoked. (1975 Code, § 5-423)

9-424. Taximeter required. All taxicabs operating under the authority of this chapter shall be equipped with taximeters fastened in front of the passengers and visible to them at all time. After sundown, the face of the taximeter shall be illuminated. The taximeter shall be operated mechanically by a mechanism of standard design and construction driven either from the transmission or from one of the front wheels by a flexible and permanently attached driving mechanism. They shall be sealed at all points and connections which, if manipulated, would affect their correct reading and recording. Each taximeter shall have thereon a flag to denote when the vehicle is employed and when it is not employed. It shall be the duty of the driver to throw the flag of such taximeter into a nonrecording position at the termination of each trip. The said taximeter shall be subject to inspection from time to time by the department of police. Any inspector or other officer of said department is hereby authorized either on complaint of any person or without such complaint to inspect any meter and, upon discovery of any inaccuracy therein to notify the person operating said taxicab to cease operation. Thereupon said taxicab shall be kept off the highways until the taximeter is repaired and in the required working condition. (1975 Code, § 5-424)

9-425. Rates of fare; rate card required. No owner or driver of a taxicab shall charge any rate of fare in excess of the following schedule of rates based on a meter reading:

(1) Forty-five cents for the first one-third of a mile or fraction thereof.

(2) For each additional one-third mile or fraction thereof, ten cents.

(3) For each 2 minutes of waiting time, ten cents.

(4) For each trunk, one dollar.

(5) Additional passengers: There shall be no charge for additional passengers.

(6) Hand baggage: There shall be no charge for hand baggage.

(7) Every taxicab operated under this chapter shall have a rate card setting forth the authorized rates of fares displayed in such a place as to be in view of all passengers. (1975 Code, § 5-425)

9-426. Receipts. A driver of any taxicab shall upon demand by the passenger render to such passenger a receipt for the amount charged, either by a mechanically printed receipt or by a specially prepared receipt on which shall be the name of the owner, license number or motor number, amount of meter reading or charges and the date of the transaction. (1975 Code, § 5-426)

9-427. Refusal of passenger to pay legal fare. It shall be unlawful for any person to refuse to pay the legal fare of any of the vehicles mentioned in

this chapter after having hired the same, and it shall be unlawful for any person to hire any vehicle herein defined with intent to defraud the person from whom it is hired of the value of such service. (1975 Code, § 5-427)

9-428. Solicitation, acceptance and discharge of passengers. The following regulations shall apply with respect to the solicitation, acceptance and discharge of passengers:

(1) Solicitation of passengers by driver. No driver shall solicit passengers for a taxicab except when sitting in the driver's compartment of said taxicab or while standing immediately adjacent to the curbside thereof. The driver of any taxicab shall remain in the driver's compartment or immediately adjacent to his vehicle at all times when such vehicle is upon public streets, except that, when necessary a driver may be absent from his taxicab for not more than ten (10) consecutive minutes, and provided further that nothing herein contained shall be held to prohibit any driver from alighting to the street or sidewalk for the purpose of assisting passengers into or out of such vehicle.

(2) Prohibitive solicitation. No driver shall solicit patronage in a loud or annoying tone of voice or by sign, nor shall he in any manner annoy any person or obstruct the movement of any person, or follow any person for the purpose of soliciting patronage.

(3) Receipt and discharge of passengers on sidewalk only. Drivers of taxicabs shall not receive passengers in the roadway but shall pull up to the right hand sidewalk as nearly as possible or in the absence of a sidewalk to the extreme right hand side of the road and there receive or discharge passengers, except upon one-way streets, where passengers may be discharged either to the right or left hand sidewalk, or side of the roadway in the absence of a sidewalk.

(4) No driver shall cruise in search of passengers except in such areas and at such times as shall be designated by the city manager. Such areas and times shall only be designated when the city manager finds that taxicab cruising would not congest traffic or be dangerous to pedestrians and other vehicles.

(5) Solicitation of other common carrier passengers prohibited. No driver, owner, or operator shall solicit passengers at the terminal of any other common carrier, nor at any intermediate points along any established route of any of the common carriers.

(6) Additional passengers. No driver shall permit any other person to operate or ride in said taxicab unless the person or persons first employing the taxicab shall consent to the acceptance of the additional passenger or passengers. No charge shall be made for any additional passenger except when the additional passenger rides beyond the previous passenger's destination and then only for the additional distance so travelled.

(7) Restriction on number of passengers. No driver shall permit more persons to be carried in a taxicab as passengers than the rated seating capacity of the taxicab as stated in the license of said vehicle as issued by the city manager. A child in arms shall not be counted as a passenger.

(8) Refusal to carry orderly passengers prohibited. No driver shall refuse or neglect to convey any orderly person or persons, upon request, unless previously engaged or unable or forbidden by the provisions of this chapter to do so.

(9) Prohibition of drivers. It shall be a violation of this chapter for any driver of a taxicab to solicit business for any motel or restaurant, or to attempt to divert the patronage from any one place of business to another. Neither shall such driver engage in selling intoxicating liquors nor solicit business for any house of ill repute or use his vehicle for any purpose other than the transporting of passengers.

(10) Prohibition of passengers. It shall be unlawful for any driver of any taxicab to permit any person or persons to ride or stand upon any part of such vehicle while the same is in motion except upon the seats provided for passengers, and it shall be unlawful for any person to ride or stand upon such vehicle except upon said seats when the same is in motion. (1975 Code, § 5-428)

9-429. Fees. The following fees shall be charged and collected for the items hereinafter set forth, said fees to be paid into the general fund of the City of Red Bank and to cover the costs of supervision of taxicabs in the City of Red Bank, the inspection of said vehicles and the drivers thereof, and the general enforcement of this chapter. These fees shall be in addition to any privilege license prescribed by other ordinances of this city, and shall be in amounts as follows:

(1) With each application for a certificate of public convenience and necessity, a fee of five dollars ($5.00).

(2) For each vehicle licensed hereunder, the sum of one dollar ($1.00) per passenger seat of said vehicle per annum.

(3) With each application for a taxicab driver's license, the sum of three dollars ($3.00). This fee shall cover the remainder of the calendar year in which issued, and shall be renewable on or before the 1st day of each calendar year thereafter upon payment of a like fee.

(4) For each taximeter inspection, not exceeding two (2) per year, the sum of one dollar ($1.00).

All permits and licenses authorized by this chapter shall expire on December 31, of each year and may be renewed for the subsequent year upon payment of the prescribed fees to the City of Red Bank. (1975 Code, § 5-429)

9-430. Open stands; establishment; use. The board of commissioners of the City of Red Bank is hereby authorized and empowered to establish open stands in such place or places upon the streets of the City of Red Bank as it deems necessary for the use of taxicabs operated in the city. The board shall not create an open stand without taking into consideration the need for such stands by the companies and the convenience to the general public. The board shall prescribe the number of cabs that shall occupy such open stands. The board

shall not create an open stand in front of any place of business where the abutting property owners object to the same or where such stand would tend to create a traffic hazard.

Open stands shall be used by the different drivers on a first come, first served basis. The driver shall pull on to the open stand from the rear and shall advance forward as the cabs ahead pull off. Drivers shall stay within five feet of their cabs. They shall not solicit passengers nor engage in loud or boisterous talk while at an open stand. Nothing in this chapter shall be construed as preventing a passenger from boarding the cab of his choice that is parked at open stands. (1975 Code, § 5-430)

9-431. Call box stands; establishment; use. The board of commissioners is hereby authorized and empowered to establish call box stands upon the streets of Red Bank in such places as in its discretion it deems proper. A holder desiring to establish a call box stand shall make written application to the board. The applicant must attach to the application the written approval of the abutting property owners of said space, consenting to the creation of such stand. Upon the filing of the application the police department shall make an investigation of the traffic conditions at said place and shall thereafter file their written recommendation with the board. The board shall then either grant or refuse the application. When a call box stand has been established as herein provided, it shall be used solely by the holder to whom the same was granted and his agents and servants and no other holder shall be permitted to use the same. However, no holder shall obtain a permit for more than three (3) such closed stands within the downtown business area.

A holder operating a call box stand as provided for in this chapter shall be allowed to have on duty at such stand, a starter or other employee for the purpose of assisting in the loading or unloading of passengers from cabs; for receiving calls and dispatching cabs; and, for soliciting passengers at such stand. The words "at such stand" shall mean that part of the sidewalk immediately adjacent to and of equal length with such call box stand. It shall be unlawful for any such starter or other employee to go beyond the area herein designated for the purpose of soliciting passengers or assisting them in boarding such cabs. (1975 Code, § 5-431)

9-432. Prohibitions of other vehicles. Private or other vehicles for hire shall not at any time occupy the spaces upon the streets that have been established as either open stands or call box stands. (1975 Code, § 5-432)

9-433. Taxicab service. All persons engaged in the taxicab business in the City of Red Bank and operating under the provisions of this chapter shall render an over-all service to the public desiring to use taxicabs. Holders of certificates of public convenience and necessity shall maintain a central place of business and keep the same open twenty-four (24) hours a day for the purpose

of receiving calls and dispatching cabs. They shall answer all calls received by them for services inside the corporate limits of Red Bank as soon as they can do so and if said services cannot be rendered within a reasonable time they shall then notify the prospective passengers how long it will be before the said call can be answered and give the reason therefor. Any holder who shall refuse to accept a call anywhere in the corporate limits of Red Bank at any time when such holder has available cabs, or who shall fail or refuse to give over-all service, shall be deemed a violator of this chapter and the certificate granted to such holder shall be revoked at the discretion of the city. (1975 Code, § 5-433)

9-434. Manifests. Every driver shall maintain a daily manifest upon which are recorded all trips made each day showing time and place of origin and destination of each trip and amount of fare. All such completed manifests shall be returned to the owner by the driver at the conclusion of his tour of duty. The forms for such manifests shall be furnished to the driver by the owner and shall be of a character approved by the city.

Every holder of a certificate of public convenience and necessity shall retain and preserve all drivers' manifests in a safe place for at least one (1) year and said manifests shall be available to the police department. (1975 Code, § 5-434)

9-435. Holder's records and reports. Every holder shall keep accurate records of receipts from operations, operating and other expenses, capital expenditures, and such other operating information as may be required by the city manager. Every holder shall maintain the records containing such information and other data required by this chapter at a place readily accessible for examination by the city.

Every holder shall submit reports of receipts, expenses, and statistics of operation to the city manager for each calendar year, in accordance with a uniform system prescribed by the city manager. Said reports shall reach the city manager on or before the 15th day of February, of the year following the calendar year for which such reports are prepared.

All accidents arising from or in connection with the operation of taxicabs which result in death or injury to any person or in damage to any vehicle, or to any property in an amount exceeding the sum of fifty dollars ($50.00), shall be reported within twenty-four (24) hours from the time of occurrence to the police department on a form of report to be furnished by said department.

It shall be mandatory for all holders to file with the city manager a copy of all contracts, agreements, arrangements, memoranda, or other writings relating to the furnishing of taxicab service to any hotel, theater, hall, public resort, railway station or other place of public gathering, whether such arrangement is made with the holder or any corporation, firm or association with which the holder may be interested or connected. Failure to file such copies within seven (7) days shall be sufficient cause for the revocation of a

certificate of any offending holder or the cancellation of any cab stand privileges. (1975 Code, § 5-435)

9-436. Advertising. Subject to the rules and regulations of the city manager it shall be lawful for any person owning or operating a taxicab or motor vehicle for hire to permit advertising matter to be affixed to or installed in or on such taxicab or motor vehicle for hire. (1975 Code, § 5-436)

9-437. Police department; duty to enforce chapter. The police department of the City of Red Bank is hereby given the authority and is instructed to watch and observe the conduct of holders and drivers operating under this chapter. Upon discovering a violation of the provisions of this chapter, the police department shall report the same to the city manager who will order or take appropriate action. (1975 Code, § 5-437)

CHAPTER 5

POOL ROOMS[1]

SECTION

9-501. Prohibited in residential areas.
9-502. Hours of operation regulated.
9-503. Minors to be kept out; exception.

9-501. Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1975 Code, § 5-501)

9-502. Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1975 Code, § 5-502)

9-503. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1975 Code, § 5-503)

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[1]Municipal code reference
Privilege taxes: title 5.

CHAPTER 6

MECHANICAL AMUSEMENT DEVICES[1]

SECTION

9-601. "Mechanical amusement device" defined.
9-602. Information to be furnished by owner or distributor.
9-603. License required.
9-604. Application.
9-605. Investigation and approval of applicant.
9-606. When license not to be issued.
9-607. Fee required.
9-608. Substitution of device under license; change of business location.
9-609. Revocation.
9-610. Licenses to be posted.
9-611. Operation of devices by minors.
9-612. Forfeiture of licenses for allowing operation of devices by minors.
9-613. Seizure and destruction of gambling devices.

9-601. "Mechanical amusement device" defined. The term "mechanical amusement device," as used herein, shall mean any machine which, on the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for the use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical grab machines and all games, operations or transactions similar thereto, by whatever names they may be designated. (1975 Code, § 5-601)

9-602. Information to be furnished by owner or distributor. Every owner or distributor of mechanical amusement devices in the city shall furnish the city manager with the name and address of each person in whose place of business any such machines have been placed by such owner or distributor to be operated or maintained for operation. (1975 Code, § 5-602)

9-603. License required. Every person who keeps for operation in the city any mechanical amusement device shall obtain an annual license for each such device from the city manager. (1975 Code, § 5-603)

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[1]Municipal code reference
Privilege tax provisions, etc.: title 5.

9-604. Application. Application for the license required by the preceding section shall be made to the city manager in duplicate upon forms to be supplied by him for that purpose and shall contain the following information:

(1) Name and address of applicant, his age, and date and place of birth.

(2) Prior convictions of applicant, if any.

(3) Place where mechanical amusement device is to be operated and business conducted at that place.

(4) Description of device to be covered by license and name of distributor or owner. (1975 Code, § 5-604)

9-605. Investigation and approval of applicant. One copy of the application shall be referred to the chief of police, who shall investigate the location wherein it is proposed to operate such device and shall also ascertain whether the applicant is a person of good moral character and shall recommend approval or disapproval of the application to the city manager. (1975 Code, § 5-605)

9-606. When license not to be issued. No license shall be issued to any applicant unless his application is approved by the city manager, and no license shall be issued to an applicant in any case unless he is over eighteen (18) years of age and a citizen of the United States. (1975 Code, § 5-606)

9-607. Fee required. Every applicant, before being granted a license, shall pay the applicable annual privilege tax for the operation of each mechanical amusement device. (1975 Code, § 5-607)

9-608. Substitution of device under license; change of business location. The license required under this chapter may be transferred from one mechanical amusement device to another similar device, but not more than one (1) device shall be operated under one license at the same time.

If a licensee moves his place of business to another location within the city, the license may be transferred to such new location upon application to the city manager, giving the street and number of the new location. The new location shall be approved by the chief of police in the same manner as the original location. (1975 Code, § 5-608)

9-609. Revocation. In addition to any other penalties provided by law, any license issued under this chapter may be revoked by the board of commissioners if the licensee directly or indirectly permits the operation thereunder of any mechanical amusement device contrary to the provisions of this chapter or the laws of the state or ordinances of the city. The board shall take such action only after five (5) days written notice to the licensee specifying

the violation of which he is charged, and after a hearing at which the licensee or his attorney may submit evidence in his defense. (1975 Code, § 5-609)

9-610. Licenses to be posted. Each license shall be posted permanently and conspicuously at the location of the mechanical amusement device on the premises wherein the device licensed is to be operated or maintained for operation. (1975 Code, § 5-610)

9-611. Operation of devices by minors. No licensee shall permit persons under eighteen (18) years of age to play or operate any mechanical amusement device for which he holds a license. The licensee shall in all instances ascertain, at his peril, the true age of any person operating such device. The fact that the person operating the device misstated his age, or that the licensee believed the person operating said device to be of age shall be no defense to a charge of violating this section. (1975 Code, § 5-611)

9-612. Forfeiture of licenses for allowing operation of devices by minors. If any licensee shall permit the operation of any mechanical amusement device in violation of the preceding section, he shall forfeit all licenses issued hereunder, and the machine used in violation of said section shall be confiscated and impounded and if, upon trial, the licensee is found guilty of violating said section, such machine shall be destroyed. In addition, said licensee shall forfeit any and all privilege licenses held by him for the maintenance or operation of amusement devices, and no similar privilege license shall be issued to him for a period of one year thereafter. (1975 Code, § 5-612)

9-613. Seizure and destruction of gambling devices. If any policeman has reasonable cause to believe any mechanical amusement device is used as a gambling device, such machine may be seized and impounded and if, upon trial, the licensee is found guilty of allowing it to be used as a gambling device, such machine shall be destroyed. (1975 Code, § 5-613)

CHAPTER 7

WRECKER SERVICE

SECTION

9-700. Purpose.
9-701. Definition of terms.
9-702. Permit required.
9-703. Local wrecker permit.
9-704. Application for permit.
9-705. Eligibility and investigation of applicants for local wrecker permits.
9-706. Issuance of local wrecker rotation permit; insurance required.
9-707. Separate permits required for each business location.
9-708. Capacity classifications established; equipment and standards; vehicles to bear name of business.
9-709. Wrecker operator to clear accident scene of debris.
9-710. Wrecker operators not to coerce customers.
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9-714. Wreckers to observe traffic laws.
9-715. Maintenance of primary and outside wrecker rotation call rosters.
9-716. Summoning of wreckers by policemen.
9-717. Billing and charges for rotation call roster wreckers.
9-718. Suspension of license.

9-700. Purpose. The purpose of this chapter is to establish a two tiered rotation call list procedure for those wrecker operators who apply to remove wrecked or disabled vehicles at the request or call of the Red Bank Police Department or other departments of the City of Red Bank, to provide for safe and timely response of such responses and operations and to provide for the administration of this chapter. (as added by Ord. #98-766, part 1, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-701. Definition of terms. The following terms, when used herein shall have the meanings herein ascribed to them:

(1) "Wrecker" or "wrecker service." Any automobile service station, automobile garage, or automobile wrecking company which owns or operates an automobile towing vehicles of the type commonly known and designated as a "wrecker."

(2) "Primary rotation wrecker." Any wrecker service above defined which maintains an established place of business within the corporate city limits of the City of Red Bank, Tennessee, or which otherwise qualifies to be placed on the primary Red Bank wrecker rotation call list.

(3) "Outside rotation wrecker." Any wrecker service which holds a valid wrecker license from the City of Red Bank and which, although located outside the City of Red Bank, otherwise qualifies to be placed on the Red Bank outside rotation call list and which service is located within seven (7) miles from the Red Bank City Hall, measured on a radial distance, and which wrecker service is capable of answering calls and does, in fact, answer calls for wrecker service with a reasonably demonstrated ability to respond to such calls at any place within the City of Red Bank within fifteen (15) minutes of having received a call/request for wrecker service.

(4) "Established place of business." A wrecker service shall be deemed to maintain an established place of business within the city if it maintains within the city:

(a) A properly zoned office and office building located adjacent and contiguous to its inside and/or outside storage facility with the telephone listed in the name of the wrecker service.

(b) An area, for inside and/or outside storage, which shall be fenced, secured by lock and screened from view of the adjacent properties and streets so that all stored vehicles shall be concealed from view. Fencing shall be of suitable commercial grade fencing materials provided, further, however, that no fence shall be constructed of corrugated or sheet metal or of any scrap material. The outside storage area(s) shall be capable of storing at least ten (10) vehicles.

(5) "Non-consensual tows" means any tow(s) performed without the prior consent or knowledge of the owner or operator of a motor vehicle, including but not necessarily limited to police directed tows and/or as a consequence of an accident or illegal or unlawful parking and/or abandonment of a vehicle and/or of any vehicles creating a traffic hazard in any way or in any way constituting a safety hazard or disrupting traffic and/or any vehicle towed at the direction of the police department as a consequence or the seizure of that vehicle pursuant to state law. (1975 Code, § 5-701, as amended by Ord. #98-766, parts 2, 3, and 4, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-702. <u>Permit required</u>. (1) Only those persons or wrecker services with an established place of business in the City of Red Bank and who are issued a permit as set forth in this chapter will be placed on the Red Bank Primary Wrecker Rotation Call List. Those persons as hereafter provided on the primary or outside wrecker rotation call list shall be called for non-consensual tows except as permitted in § 9-716(4) and the Red Bank Municipal Code.

(2) Those persons who do not maintain an established place of business in the City of Red Bank but who otherwise meet the requisite location and response time criteria set forth in § 9-701(3) and obtain a permit will be placed on the outside wrecker rotation call roster.

(3) Except as provided and authorized in § 9-716(4) of this chapter, no wrecker service shall be utilized for wrecker calls by the Red Bank Police

Department unless such wrecker service shall have and maintain in good standing a permit as required under and pursuant to § 9-706 hereof. (1975 Code, § 5-702, as replaced by Ord. #98-766, part 5, March 1998, Ord. #03-878, Aug. 2003, and Ord. #10-957, July 2010)

9-703. Local wrecker permit. Each eligible wrecker service desiring to be placed upon the primary wrecker rotation call roster or on the outside wrecker rotation call roster as described in § 9-714 shall obtain a local wrecker permit from the city manager as herein provided. (1975 Code, § 5-702.1, as replaced by Ord. #03-878, Aug. 2003)

9-704. Application for permit. Any person, firm, or corporation desiring to obtain a primary local rotation wrecker call permit or an outside rotation wrecker call permit shall file with the city manager an application setting out, among other things, the following:

(1) The name and address of the person, firm, or corporation desiring the local wrecker permit.

(2) The address (if applicable for an outside rotation wrecker, the radial distance from city hall to the places where the wrecker(s) are available), and the location, description, and hourly availability of wreckers owned and operated by the applicant.

(3) A statement setting forth and describing available space for properly accommodating and protecting all disabled motor vehicles to be towed or otherwise removed from the streets where they have been disabled.

(4) The number of and towing capacity of the wreckers that may be used for such purpose owned or available for use by the applicant.

(5) A statement that applicant will comply with the rules and regulations now or hereafter promulgated from time to time by the city manager.

(6) That all wreckers will be fully equipped at all times with emergency equipment, such as light bars, flares, axes, towing slings, shovels, fire extinguishers, and brooms.

(7) A statement that the wrecker operator will accept responsibility for the vehicle towed and any and all personal property left in the stored vehicle(s) and shall hold harmless and indemnify the City of Red Bank from any liability related thereto.

(8) A statement that the wrecker operator will meet and comply with all local ordinances with regard to vehicle storage.

(9) A statement that the wrecker operator will not release any vehicle impounded by the city without the written authorization of the city manager and/or the chief of police. (1975 Code, § 5-703, as amended by Ord. #98-766, part 6, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-705. Eligibility and investigation of applicants for local wrecker permits. (1) The city manager shall investigate or cause to be investigated each applicant for a local wrecker rotation call permit for the purpose of determining whether or not the applicant meets the several qualification requirements and has the necessary facilities and equipment to qualify as a primary rotation wrecker or as an outside rotation wrecker operator. If the applicant is so qualified, a local primary rotation permit, or as is applicable, an outside rotation wrecker permit shall be issued.

(2) No person convicted of a felony within ten (10) years next preceding the application date shall be eligible for or issued a permit as provided under this chapter; no corporation, limited liability company, partnership or other entity shall be eligible for a permit in the event that any officer, director, shareholder, manager, equity position holder, or employee shall have been convicted of a felony within the ten (10) years next preceding the application date for such permit under this section; provided, further, that conviction of a felony by any such person above referenced during the time when a permit hereunder shall otherwise be in effect shall be grounds for immediate administrative revocation of such permit unless the permit holder shall irrevocably disassociate itself, based upon satisfactory evidence provided to the city manager, from any such person so convicted of a felony, said disassociation to take place not less than forty-five (45) days next following entry of a judgment of conviction of felony during the time when said permit is in effect.

(3) The provisions of § 9-705(2) shall not be construed so as to revoke any permit validly issued or render ineligible any individual holding a validly issued permit as of the date of passage of the ordinance comprising this section on second and final reading, nor shall the same be utilized to deny the renewal or reissuance of any permit validly issued prior to the effective date of the ordinance comprising this section except as relates to the conviction of a felony subsequent to the date of the passage of this section. (1975 Code, § 5-704, as amended by Ord. #98-766, part 7, March 1998, and replaced by Ord. #03-878, Aug. 2003, and Ord. #10-957, July 2010)

9-706. Issuance of local wrecker rotation permit; insurance required. When an application for a local wrecker permit has been approved, the city shall issue such permit to the applicant upon the payment by the applicant of the annual permit fee. The annual permit fee shall be $100.00. All primary and/or outside wrecker rotation call permits shall expire on December 31st and shall be renewed between December 1st and December 31st, of each year. Before the city manager shall issue any local wrecker rotation call permits the applicant shall deposit with the city manager a certificate of an underwriter that the applicant has in force a policy or policies of insurance issued by a company authorized to transact business in the State of Tennessee, as follows: A garage-keeper's legal liability policy, broad form, covering fire, theft, explosion, and collision with not less than the following limits:

Fire theft and/or other casualty, all in a minimum amount of $500,000 per occurrence and $1 million in the aggregate.

Collision, subject to $1,000.00 deductible, with each accident being a separate claim, with limits of not less than $500,000.00.

A broad form garage liability policy covering the operation of applicant's own business, equipment or vehicles for bodily injuries and death in the amount of not less than $500,000.00 for any one person killed or injured; $1 million for more than one person killed or injured in any one accident; and not less than $500,000.00 for all damage arising from injury to or destruction of property.

The policy or policies shall contain an endorsement providing for ten (10) days notice to the City of Red Bank in the event of any material change or cancellation of the policy or policies by the insurance company. Failure to maintain such coverage and/or to keep the certificates current with city shall result in immediate suspension of the permit. (1975 Code, § 5-705, as amended by Ord. #98-766, part 8, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-707. Separate permits required for each business location. Each separate business location operated by a wrecker service shall require a separate local wrecker permit. Each local wrecker permit issued by the city shall designate specifically the location and address of the local wrecker service to whom it is issued. Should the local wrecker service move its address to any location other than that endorsed upon the permit, the permit shall be void unless it is presented to the city recorder within thirty days after the change of address, and the new address and location endorsed thereon by the city recorder. A fee of one hundred fifty ($150.00) dollars shall be paid for such endorsement which shall be verified by the signature of the city recorder. (1975 Code, § 5-705.1, as amended by Ord. #98-766, part 9, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-708. Capacity classifications established; equipment and standards; vehicles to bear name of business. Every primary rotation wrecker and each outside rotation wrecker permitted by the City of Red Bank, Tennessee shall display, painted or magnetically adhered upon both sides in prominent letters, the name and address of the owner or a business name and address of the permitted wrecker service. A rotation wrecker may display both the business name and the name of the owner but no rotation wrecker shall display the name of more than one (1) place of business or more than one (1) owner unless such owners are partners in the same business.

(1) Four (4) vehicle towing classes are established as set out hereinbelow. Each towing vehicle of an operator shall only be listed in one (1) class. The following criteria shall be met for each respective class, and at least one (1) of which shall be met per vehicle for the inclusion of that classification of vehicle on the primary wrecker rotation call list as to each vehicle towing

class. Wrecker companies and permit holders may have any one (1), more or all of the following classification vehicles:

(a) Class A: for towing passenger cars, pick up trucks, small trailers, etc. This classification also includes "wheel lift" type vehicle transporters.

(i) The towing vehicle chassis shall have a minimum manufacturer's capacity of fourteen thousand (14,000) pounds or greater GVWR;

(ii) Individual boom capacity of not less than four (4) tons;

(iii) Individual power winch pulling capacity of not less than four (4) tons;

(iv) A minimum of one hundred feet (100') of three-eighths inch (3/8"), or larger, cable on each drum;

(v) Wheel lift capable of picking up a passenger car or pick-up truck;

(vi) Belt-type cradle tow plate or tow sling to pick up vehicles, and cradle or tow plate to be equipped with safety chain;

(vii) Dollies are suggested, but not required; and

(viii) Wheel lift: towing vehicles possessing equipment capable of lifting the vehicle by the wheels only, with nothing touching the vehicle body.

(A) Wheel lift towing vehicles shall meet all Class "A" requirements, excluding the belt-type cradle tow plate or tow sling.

(B) Safety restraint straps (nylon straps with ratchets or the equivalent) shall be provided to secure the towed vehicle's tires into the wheel lift forks.

(b) Class B: for towing medium size trucks, trailers, etc.

(i) The towing vehicle chassis shall have a minimum manufacturer's capacity of twenty-six thousand (26,000) pounds or greater GVWR;

(ii) Boom specifications:

(A) Double boom: so constructed as to permit splitting, each boom to operate independently or jointly, individual boom capacity of no less than eight (8) tons and individual power winch pulling capacity of not less than eight (8) tons; or

(B) Single boom: with no less than a sixteen (16) ton capacity and a power winch pulling capacity of no less than sixteen (16) tons.

(iii) Two hundred feet (200'), or more, of seven-sixteenths inch (7/16"), or larger, cable on each drum; and

(iv) Cradle tow plate or tow sling to pick up vehicle, cradle or tow plate to be equipped with safety chain.

(c) Class C: for towing large trucks, road tractors, and trailers.

(i) The towing vehicle chassis shall have a minimum manufacturer's capacity of thirty-five thousand (35,000) pounds or greater GVWR;

(ii) Boom specifications:

(A) Double boom so constructed as to permit splitting; each boom to operate independently or jointly; individual boom capacity of no less than twelve and one-half (12 1/2) tons; or

(B) Single boom with no less than a twenty-five (25) ton capacity and a power winch pulling capacity of no less than twenty-five (25) tons.

(iii) Two hundred feet (200'), or more, of nine-sixteenths inch (9/16"), or larger, cable on each drum;

(iv) Airbrakes constructed so as to lock wheels automatically upon failure;

(v) Only tandem axle trucks with two (2) live drive axles will be accepted as Class C; and

(vi) An under-reach capable of towing an eighty thousand (80,000) pound tractor trailer combination shall be required on all Class C towing vehicles that are added to the towing list after July 1, 2008.

(d) Class D: Vehicle transporters designed to tow or carry passenger cars, pick-up trucks, small trailer, etc. This classification includes "car carrier" or "rollback" type vehicle transporters.

(i) Car carrier vehicle transporters:

(A) The truck chassis shall have a minimum manufacturer's capacity fourteen thousand (14,000) pounds or greater GVWR;

(B) Lift cylinder:

(1) Two (2) with a minimum of three inch (3") bore each; or

(2) One (1) with a minimum of five and one-half inch (5 1/2") bore.

(C) Individual power winch pulling capacity of not less than four (4) tons;

(D) Fifty feet (50'), or more, of three-eighths inch (3/8"), or larger, cable on winch drum;

(E) Two (2) safety chains for securing vehicle to carrier bed;

(F) Carrier bed shall be a minimum of sixteen feet (16') in length and a minimum of eighty-four inches (84") in width inside side rails;

(G) Cab protector, constructed of solid steel or aluminum, that extends to a height of four feet (4') above the floor or to a height at which it blocks the forward movement of the bumper of the vehicle being towed; and

(H) Straps with ratcheting capability that provide for the transporting of motorcycles.

(2) In addition to the equipment required under the applicable classifications hereinabove provided, all rotation wreckers, whether primary or outside, shall have and maintain equipment and standards which comply with at least the following:

(a) At least one (1) functional, amber-colored, and rotating or strobe type light (LED lights are also permissible) shall be permanently mounted on the top of the towing vehicle.

(b) Work lights (operational), all emergency flashers and directional lights showing to the front must be amber in color.

(3) Trailer ball attachment.

(d) Safety and emergency package including:

(i) At least one (1) heavy-duty push broom;

(ii) Flood lights mounted at a height sufficient to illuminate the scene at night;

(iii) One (1) shovel;

(iv) One (1) axe;

(v) One (1) pinch bar, pry bar or crowbar;

(vi) One (1) set of bolt cutters;

(vii) Minimum of one (1) fully charged twenty (20) pound, or two (2) fully charged ten (10) pound, fire extinguisher(s) having an Underwriters Laboratory (UL) rating of four (4) A: B: C: or more. The fire extinguisher must be securely mounted on the towing vehicle;

(viii) Minimum of one (1) fifty (50) pound bag of a fluid absorption compound;

(ix) Three (3) (minimum) red emergency triangular reflectors; and

(x) One (1) light bar. The towed vehicle must be capable of displaying all lights on the rear of the vehicle, while in tow. When this is not possible; a light bar must be attached to the rearmost vehicle while in tow. The bar must consist of at least two (2) tail lamps, two (2) stop lamps and two (2) turn signals. All lights on the light bar must be fully operational.

(3) No wrecker, whether primary rotation or outside rotation, shall be equipped with or operate any siren; sirens on wreckers are prohibited.

(4) Before any permit shall be issued or renewed, each permitted wrecker shall be inspected for compliance with the requirements of this section by the city manager or designee and an inspection fee of twenty-five dollars ($25.00), which may be amended by subsequent resolution by the city commission from time to time, shall be paid by the applicant to defray the cost of the inspection. (1975 Code, § 5-706, as amended by Ord. #98-766, part 10, March 1998, replaced by Ord. #03-878, Aug. 2003, and amended by Ord. #10-957, July 2010)

9-709. Wrecker operator to clear accident scene of debris. It is the responsibility of the wrecker operator to remove debris from the scene of any accident for which the wrecker is called and to comply with all requirements of Tennessee Code Annotated, § 55-8-170 as now enacted or later amended, whether such call be a primary rotation wrecker, an outside rotation wrecker or a consensual tow wrecker. (as added by Ord. #98-766, part 11, March 1998, and replaced by Ord. #03-878, Aug. 2003, and Ord. #10-957, July 2010)

9-710. Wrecker operators not to coerce customers. The wrecker or towing operator shall pull a wrecked vehicle to any place designated by the owner of such wrecked vehicle. It shall be unlawful for the owner of a wrecker, his agent, employee or representative, while at the scene of any accident, to coerce or insist that any owner of, or person in control or possession of a wrecked vehicle sign a work order or agreement for any repairs to be made on such wrecked vehicle. (1975 Code, § 5-707, as renumbered by Ord. #98-766, part 12, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-711. Not to respond to calls for police. It shall be unlawful for any wrecker service to attend the scene of a wreck, based upon information received by listening to police radio calls, unless a request is broadcast to that particular wrecker service over the police radio to come to said scene. (1975 Code, § 5-708, as renumbered by Ord. #98-766, part 13, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-712. Duty of wrecker operator upon receiving call for service. Any wrecker service, upon receiving a call to come to the scene of an accident by any person other than the city police, shall immediately, and before leaving his place of business, call the city police and report the accident to them. Upon reporting the accident to the police department, the wrecker service will be advised whether or not to proceed to the scene of the accident, and shall in all cases abide by the instructions received by him from the police department. (1975 Code, § 5-709, as renumbered by Ord. #98-766, part 14, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-713. Wreckers not to follow emergency vehicles. It shall be unlawful for any wrecker to follow an ambulance, fire truck, police vehicle, or other emergency vehicle upon the city streets, with the intention of soliciting business at the scene of some accident, catastrophe, or other mishap. (1975 Code, § 5-710, as renumbered by Ord. #98-766, part 15, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-714. Wreckers to observe traffic laws. Any wrecker proceeding to or from the scene of an accident or operating upon the city streets at any other time shall at all times observe all speed and traffic laws in effect in the city. (1975 Code, § 5-711, as renumbered by Ord. #98-766, part 16, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-715. Maintenance of primary and outside wrecker rotation call rosters. Each local wrecker service which is qualified therefor in accordance with the provisions of this chapter will be placed upon either the primary wrecker rotation call roster or upon the outside rotation call roster. Upon issuance of the applicable local wrecker permit, said local wrecker service shall be entered upon either the primary rotation call roster or upon the outside rotation call roster immediately following the wrecker service on, as is applicable, either the primary or the outside rotation call roster called to the scene of an accident by the police department, provided, however, that no permitted wrecker service shall be eligible to receive calls on either list under § 9-715 hereof unless such local wrecker service:

(1) Is open for calls twenty-four hours a day, and

(2) Holds a current local wrecker permit. (1975 Code, § 5-712, as renumbered and amended by Ord. #98-766, part 17, March 1998, and replaced by Ord. #03-878, Aug. 2003)

9-716. Summoning of wreckers by policemen. The police department and all officers and employees and/or other officers or employees of the City of Red Bank thereof shall observe the following regulations in summoning a wrecker as to each incident for which a rotation wrecker call is necessary:

(1) The investigating or arresting officer shall first ascertain from the owner or operator of a vehicle for which a wrecker is required what wrecker service the owner or operator prefers to handle his vehicle. If the owner or operator specifies a special wrecker service, and if in the judgment of the police officer the specified wrecker service can reach the scene without delay of fifteen (15) minutes or greater from the time of such call where the vehicle or vehicles involved create a traffic hazard or traffic congestion, the police shall promptly notify the wrecker service to come to the scene of the accident.

(2) If the owner or operator of the vehicle involved expresses no preference for wrecker service, or if the operator of the vehicle involved is not

competent to designate a wrecker service by reason of injuries or otherwise, or the wrecker service designated by the owner or operator is not immediately available, then and in that event the police officer shall summon the permitted wrecker service next in line on the primary wrecker rotation call roster.

(3) In the event the permitted local wrecker service next in line on the primary wrecker rotation call roster called is not able to immediately dispatch a wrecker to the scene, then and in that event the officer shall summon the next in line on the primary wrecker rotation call roster service on the primary rotation call roster which is able to respond immediately to the call until such list is exhausted.

(4) In the event that there is no permitted wrecker on the primary wrecker rotation call roster available, or in the event that none of such permittees on the primary rotation list have or has equipment capable of handling the call, then the police officer shall summon the permitted wrecker next in line on the outside wrecker rotation call roster, and if there is no permitted wrecker on the outside wrecker rotation call roster available with equipment capable of handling the call, then the officer shall summon any available outside wrecker service with equipment capable of handling the call as circumstances may occur from time to time and from incident to incident; for each such subsequent and/or different incident, the primary rotation call roster shall first be exhausted before resorting to the outside rotation call roster which shall, in turn, be exhausted before resulting to the calling of an outside wrecker service with equipment capable of handling the call.

(5) In the event any wrecker other than the one which has been summoned by the police responds to any call, the police officer in charge shall not permit such wrecker to pull the vehicle involved, but shall thereupon call the appropriate local wrecker service as hereinabove provided.

(6) Any time that a local wrecker service which has been summoned by the police to pull a vehicle determines that it is unable to respond to such summons, it shall be the responsibility of the wrecker service to notify the police department immediately. Under no circumstances shall a wrecker service which has been called by the police department in turn call another wrecker service and request it to take the call for the wrecker service which has been called by the police. There shall be no subcontracting or assignment of calls.

(7) Under no circumstances shall any city employee allow any such wrecked, damaged or abandoned vehicle to be left on private property without the consent of the owner or occupant of that private property. (1975 Code, § 5-713, as renumbered and amended by Ord. #98-766, part 18, March 1998, replaced by Ord. #03-878, Aug. 2003, and amended by Ord. #10-957, July 2010)

9-717. <u>Billing and charges for rotation call roster wreckers</u>. All primary or outside rotation wrecker permit holders shall be subject to regulation as to billing and charges for any call from the police department referred to such wrecker under the call rotation system as follows:

(1) The owner of a wrecker car shall have prepared billheads with his name and the address of his place of business printed thereon. If requested by the owner of the disabled vehicle, the operator of the wrecker before towing a disabled vehicle away shall prepare a bill on his billhead form in duplicate; the original of which shall be given to the owner of the disabled vehicle or his authorized representative. This bill shall contain the following information:

(a) Name and address of person engaging towing car

(b) State license number of disabled vehicle

(c) Storage rates per day or part thereof

(d) An estimate of the amount to be charged for towing which may thereafter only be adjusted for good cause. The printing of a schedule of fees on a billhead marked as to services rendered shall be sufficient for this purpose.

(2) The duplicate copy of the bill shall be retained by the wrecker or towing car owner for a period of one (1) year, and shall be subject to inspection by the wrecker inspector or his duly authorized representative.

(3) In the event the bill is for an amount more than the schedule of charges for routine services described in paragraph (4) below, then the bill shall contain an itemization of the number of worker-hours involved in the recovery and towing of the disabled vehicle, an itemization of the vehicle-hours involved, and any other special charges which cause the bill to be higher than the schedule of charges for routine services.

(4) The maximum charge for rotation wrecker calls shall be as follows:

A Class and D Class	Day	$125.00
(Min. GVWR	Night	$135.00
14,500 lbs)	Storage (outside)	$15.00 per day
	Storage (inside)	$17.00 per day
	Extra winching (for overturned vehicles or vehicles down an embankment)	$50.00
	Dollies	$45.00
B Class	Day	$250.00
(Min. GVWR	Night	$285.00
25,000 lbs)	Storage (tractor)	$35.00 per day
	Storage (trailer)	$35.00 per day
	Extra winching (for overturned vehicles or vehicles down an embankment)	$150.00

C Class	Day	$425.00
(Min. GVWE	Night	$500.00
50,000 lbs)	Storage (tractor)	$35.00 per day
	Storage (trailer)	$35.00 per day
	Extra winching (for overturned vehicles or vehicles down an embankment)	$225.00 per ½ hours
	Air bags	$1,000.00 first 2 hours; $500.00 per hour thereafter

(a) Any additional charge by Class A, Class B, Class C, or Class D wreckers for winching, dollies, wheel lift or rollbacks, or other equipment or services not normally incident to towing wrecked or disabled vehicles shall be allowed only when the additional charge is

(i) Reasonably necessary to retrieve a wrecked vehicle which is off of the road or overturned;

(ii) To protect the wrecked or disabled vehicle from reasonably foreseeable additional damage should the device not be used; or

(iii) At the request of or permission of the owner or operator.

An additional charge can be made for the pneumatic devices used to raise overturned trucks or other equipment not normally used in a tow. If more than one wrecker is necessary for recovery of the wrecked disabled vehicle the charges shall apply to each vehicle.

(b) Recovery class (for towing large trucks, road tractors and trailers which require winching) shall be as follows:

(i) Contained recovery/winching for all recovery jobs in which there is no clean- up of debris from the vehicle to be Recovered and cargo doors remain closed. 7.0¢ per pound

(ii) Salvage/debris recovery for picking up debris/parts or loading from one vehicle to another, or a vehicle that breaks apart and needs to be towed from the scene. 8.0¢ per pound

(iii) The following charges may be added to the contained recovery/winching or salvage/debris recovery when applicable and if specified on the billing invoice:

(A)	Inclement weather: Rain, snow, or if the temperature is below 25°F	1.5¢ per pound
(B)	Nights, weekends and holidays: Includes times after 7:00 PM and before 8:00 AM and any time on Saturdays, Sundays, and all public holidays	1.5 ¢ per pound
(C)	Wheels higher than roof: If any wheel is higher than any part of the roof	1.0 ¢ per pound
(D)	Embankments or inclines: If it is necessary to work on an embankment or incline	1.0 ¢ per pound
(E)	Back door frame open: If the back doors cannot be closed or the door frame is torn away and the integrity of the trailer is jeopardized.	1.0 ¢ per pound
(F)	Tractor from under trailer: If the tractor separates from the trailer in the crash	1.0 ¢ per pound
(G)	Major suspension damage: If major suspension damage has an impact on the recovery, e.g. axles have been torn from suspension, but does not include if only front axle is involved.	5.0 ¢ per pound
(H)	Air bags: $1,000.00 first 2 hours; $500.00 per hour thereafter	
(I)	Sublet charges: For tractor trailers, dump trucks, backhoes, containers, roll of containers, and other equipment necessary for the recovery which is not required equipment to qualify as a recovery class or any other wrecker class under this chapter. Sublet charges shall be reasonable rates based upon the market rate for renting said equipment in the City of Red Bank.	

(J) Exposure to hazardous and/or flammable materials: Charges for personnel being exposed to the risks associated with hazardous materials and/or flammable materials, not including the charges for the clean up of said materials. This charge shall be a reasonable charge based upon the market rate in this state. The burden shall be upon the wrecking company to establish the market rate.

All recovery class operators must keep on file at their location, for a period of one year, video documentation of the scene, and the conditions for which all additional charges are being billed pursuant to this chapter. Video documentation shall consist of videotape, film, photographs, or other media which accurately depicts the scene and conditions as they actually appeared at the time of recovery.

No storage fee shall be charged by any district wrecker class if the vehicle is reclaimed by the owner within the first eight (8) hours.

For every wrecker class, if more than one owner or employee per wrecker is of necessity assigned to assist in the recovery of the disabled vehicle, the normal hourly wage of the additional employee's adjusted fringe benefits can be made as an additional charge. (1975 Code, § 5-714, as renumbered and amended by Ord. #98-766, March 1998, replaced by Ord. #03-878, Aug. 2003, and amended by Ord. #04-895, Sept. 2004, and Ord. #10-957, July 2010)

9-718. Suspension of license. Any person, firm or corporation operating a wrecker service, which violates any of the provisions of this chapter shall, for its first violation, have its privilege license for doing business in the City of Red Bank summarily suspended by the city manager for a period of not less than thirty (30) nor more than ninety (90) days, in addition to any fine which may be assessed under the general penalty clause for this code. During the period that any wrecker service is under suspension in accordance herewith, the same shall not be permitted to pull or tow any motor vehicle upon the streets of this city. Subsequent violations may result in revocation or non-renewal of such operator's license and accordingly removal from the applicable rotation call roster. (1975 Code, § 5-715, as renumbered by Ord. #98-766, part 20, March 1998, and replaced by Ord. #03-878, Aug. 2003)

CHAPTER 8

ADVERTISING SIGNS, ADMINISTRATION AND ENFORCEMENT[1]

SECTION

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9-823. Scenic corridors established.
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9-825. Prohibited on-premises signs and devices.
9-826. Authorized use of temporary signs, banners and special events.
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[1]Municipal code references
Building and electrical codes: title 12.
Privilege tax provisions: title 5.

9-831. General regulation of permanent on-premises signs.
9-832. Number and size of permitted on-premise signs.
9-833. Maximum size limitations for detached signs.
9-834. Set-back requirements for detached signs.
9-835. Minimum and maximum height limitations on detached signs.
9-836. Traffic directional signs.
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9-838. Maintenance of on-premises signs.
9-839. Flags.
9-840. Compliance and corrective provisions.
9-841. Various building and safety codes applicable.
9-842. Political signs regulated.
9-843. Set back variances and procedures.

9-801. Exemptions from and applicability of chapter. (1) Nothing in this chapter shall apply to any notice required by this code or other ordinances of the city or legal notices of public officers and attorneys, posted in the manner and places provided by law, or to the right of any newspaper to distribute its paper throughout the city.

(2) Nothing contained herein is intended to conflict with the provisions of the Red Bank Zoning Ordinance as now enacted or hereafter amended except that the provisions of § 9-823 and § 9-824 are intended to provide that, notwithstanding provision in the zoning ordinance that would otherwise permit the erection and maintenance of on-premises and/or off-premises signs in a zone or zones, the provisions of § 9-823 and § 9-824 shall override the permissive provisions of the zoning ordinance currently located in zones where such uses are currently permitted by the zoning ordinance. (1975 Code, § 5-801, as replaced by Ord. #03-875, June 2003)

9-802. Definitions. For the purposes of this chapter, the following definitions shall apply:

(1) "Attached sign." Attached sign shall mean an on-premise sign painted onto or attached to a building, canopy, awning, marquee or mechanical equipment located outside a building, which does not project more than eighteen (18) inches from such building, canopy, awning, marquee or mechanical equipment. Any such sign which projects more than eighteen (18) inches from a building, canopy, awning, marquee or mechanical equipment shall be considered a "projecting sign." For the purposes of this definition only, "canopy" shall mean a canopy which is permanently attached to a building or which, if detached from a building, has more than two hundred (200) square feet of roof area.

(2) "Awning." Awning shall mean a roof-like cover providing protection from the weather placed over or extending from above any window,

door or other entrance to a building but excluding any column, pole or other supporting structure to which the awning is attached.

(3) "Balloon sign." Balloon sign shall mean any sign painted onto or otherwise attached to or suspended from a balloon, or other inflatable device, whether such balloon or device is anchored of affixed to a building or any other portion of the premises or tethered to and floating above any portion of the premises.

(4) "Banner." Banner shall mean an on-premise sign which is made of fabric, paper or any other non-rigid material and which has no enclosing framework or internal supporting structure but not including balloon signs.

(5) "Building." Building shall mean any structure that encloses a place for sheltering any occupancy that

(a) Contains not less than three hundred (300) square feet of enclosed space at the ground level or

(b) Is routinely used for human occupancy in the ordinary course of business.

(6) "Building identification sign." Building identification sign shall mean an on-premise sign which is limited to the identification of the name of the building and/or the address of the building upon which such sign is located.

(7) "Canopy." Canopy shall mean a marquee or permanent roof-like structure providing protection against the weather, whether attached to or detached from a building, but excluding any column, pole or other supporting structure to which the canopy may be attached.

(8) "Construction sign." Construction sign shall mean any temporary on-premise sign located upon a site where construction or landscaping is in progress and relating specifically to the project which is under construction, provided that no such sign shall exceed a total of one hundred (100) square feet in sign area.

(9) "Detached sign." Detached sign shall mean

(a) Any freestanding sign or projecting sign,

(b) Any sign attached to a canopy which is detached from a building and which has less than two hundred (200) square feet of roof area, and

(c) Any sign attached to a structure which is not a building.

(10) "Erect." Erect means to build, construct, attach, hang, place, suspend or affix, and shall also include the painting of signs on building surfaces.

(11) "Facade." Facade shall mean the total external surface area of a vertical side of a building, canopy, awning or mechanical equipment used to dispense a product outside a building. If a building, canopy, awning or mechanical equipment has a non-rectangular shape, then all walls or surfaces facing in the same direction, or within twenty-five (25) degrees of the same direction, shall be considered as part of a single facade. Additionally, any portion of the surface face of a mansard, parapet, canopy, marquee or awning

which is oriented in the same direction (or within twenty-five (25) degrees of the same direction) as the wall to which, or over which, such mansard, parapet, canopy, marquee, or awning is mounted shall be deemed a part of the same facade as such wall.

(12) "Facing and surface." Facing and surface mean the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

(13) "Freestanding sign." Freestanding sign shall mean a permanently affixed single or multi-faced on-premises sign which is constructed independent of any building and supported by one or more columns, uprights, braces or constructed device. No free standing sign shall have a total sign area of greater than two hundred eighty-eight (288) square feet.

(14) "Grass surface area of sign." Gross surface are of sign means the entire area defined by the limits of the perimeter of a sign. However, such perimeter shall not include any structural elements lying outside or inside of the limits of such sign and not forming an integral part of the display.

(a) For computing the area of any wall sign which consists of letters, trademarks or symbols mounted on a wall, the gross surface area shall be the area within a single continuous perimeter formed by the parallel lines at the top, bottom and sides of such letters, trademarks or symbols.

(b) For computing the area of any multi-sided sign, the gross surface area shall refer to all sides of such sign.

(15) "Height." Height shall mean the total measurement of the vertical side of the rectangle which is used to calculate "sign area" as specified in this § 9-802.

(16) "Incidental sign." Incidental sign shall mean an on-premise sign, emblem or decal mounted flush with the facade to which it is attached and not exceeding two (2) square feet in sign area informing the public of goods, facilities or services available on the premises (e.g., a credit card sign, ice machine sign, vending machine sign or a sign indicating hours of business) or an on-premise sign which is affixed to mechanical equipment used to dispense a product and which is less than two (2) square feet in sign area.

(17) "Inflatable or air-supported signs." Inflatable or air supported signs means structures which are used for advertising promotional purposes which are supported by air. This shall include but shall not be limited to balloons or dirigibles and is synonymous with "balloon signs."

(18) "Landmark sign." Landmark sign shall mean any on-premise sign which identifies and is attached to any building which is included on the National Register of Historic Places, is listed as a Certified Historic Structure, is listed as a National Monument or is listed under any similar state or national historical or cultural designation.

(19) "Maintenance." Maintenance means the replacing or repairing of a part of a sign made unusable or unsightly by ordinary wear and tear or

damage beyond the control of the owners, or the reprinting or repainting of existing copy without changing the wording, composition or color of the sign as it was approved.

(20) "Mansard." Mansard shall mean the lower portion of a roof with two pitches, including a flat-top roof with a mansard portion.

(21) "Mansard sign." Mansard sign shall mean any sign attached to the mansard portion of a roof.

(22) "Marquee." Marquee shall mean a permanent roof-like structure projecting from and beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

(23) "Message center." Message center shall mean a sign on which the message or copy changes automatically on a lamp bank or through mechanical means also known as a commercial electronic variable message sign.

(24) "Occupant." Occupant shall mean each separate person which owns or leases and occupies a separate portion of a premises.

(25) "Off-premise sign." Off-premise sign shall mean a sign or a portion thereof which directs attention to a business, profession, commodity or entertainment which is not primarily conducted, sold or offered upon the same premises on which the sign is located and shall include any sign which is not an "on-premises sign."

(26) "On-premise sign." On-premise sign shall mean any sign whose content relates to the premises on which it is located, referring exclusively to the name, location, products, persons, accommodations, services, entertainment or activities conducted on or offered from or on those premises, or the sale, lease, or construction of those premises.

(27) "Owner." Owner means any person or persons having legal title to any sign, property, building, structure or premises, with or without accompanying actual possession thereof, and shall include such person's duly authorized agent or attorney, a purchaser, devise, lessee, executor, trust officer, administrators or fiduciary and any person having a vested or contingent interest or control of or in the sign, property, building structure or premises in question. The term "person" shall include any legal entity.

(28) "Person." Person shall mean individual, company, corporation, association, limited liability company, partnership, joint venture, business, proprietorship or any other legal entity.

(29) "Portable sign." Portable sign shall mean any on-remise sign which is not affixed to real property in accordance with the city's then applicable building codes or in such a manner that its removal would cause serious injury or material damage to the property or which is intended to be or can be removed at the pleasure of the owner, including, without limitation, single or multi-faced sandwich boards, wheel-mounted mobile signs, sidewalk and curb signs, ground signs and balloon signs.

(30) "Premises." Premises shall mean all contiguous land in the same ownership which is not divided by any public highway, street or alley or right-of-way therefor and shall be synonymous with the terms tax parcel or lot of record.

(31) "Projecting sign." Projecting sign shall mean an on-premise sign attached to a building, canopy, awning or marquee and projecting outward therefrom in any direction a distance or more than eighteen (18) inches, provided, however, that no projecting sign shall extend horizontally from the building more than eight (8) feet at the greatest distance.

(32) "Public interest directional markers." A small, off-premises (no more than two (2) square feet total area) non-illuminated and non-electrified directional placard or sign directing pedestrian and/or vehicular traffic toward public buildings, hospitals, places of worship, public libraries, public museums, public parks, cemeteries and/or other public facilities.

(33) "Public right-of-way or right-of-way." Public right-of-way or right-of-way means all of the land included within an area which is dedicated, reserved by deed or granted by easement for a street, alley, walkway, parkway or easement, in which the public, public agencies, utilities and service have access.

(34) "Reader board." Reader board shall mean any on-premise sign attached to or made a part of the support system of a freestanding sign which either displays interchangeable messages or advertises some product or service offered separately from the name of the premises where it is located, such as "Deli Inside," Tune-Ups Available," "Year-End Special" and the like.

(35) "Rigid materials." Rigid materials means a material or composition of materials which cannot be folded and can support its own weight when rested upon parallel edges of such materials.

(36) "Roof sign." Roof sign shall mean an attached or projecting sign

(a) Which is placed on top of or over a roof, excluding the mansard portion of a roof, or is attached to any flagpole, antenna, elevator housing facilities, air conditioning towers or coolers or other mechanical equipment on top of a roof,

(b) Any portion of which extends above the top of the wall, canopy or awning to which such sign is attached, or

(c) Any portion of which extends above the top of the mansard in the case of a mansard sign.

(37) "Scenic corridor." Scenic corridor shall mean those land areas within the city limits which lie within six hundred sixty (660) feet of either side of the outermost edge of any of the roads, rivers, or rights-of-way more specifically designated in §§ 9-821 through 9-824, which are either of uncommon visual importance or scenic attractiveness.

(38) "Sign." Sign shall mean any structure or wall or device or other object used for the display of any message or messages; such term shall include without limitation any structure, display, device or inscription which is located upon, attached to, or painted or represented on any land, on any building or structure, on the outside of a window, or on an awning, canopy, marquee, or similar appendage, and/or which displays or includes in any manner designed or intended or which can be seen from out of doors, any message or messages, numeral, letter work, model, emblem insignia, symbol, device, (including without limitation balloons, blimps, or other similar or dissimilar devices), light,

projected images, trademark, or other representation or platform or background of any kind used as, or in the nature of, an announcement, advertisement, attention arrester, warning or designation of any person, firm, group, organization, place, community, product, service, location, businesses, profession, enterprise or industry. Provided, however, that the following shall be excluded from this definition:

(a) Address/name signs. A sign, not exceeding 1 square foot in area, identifying the name or house number of the occupant or the presence of a permitted home occupation.

(b) Any message or messages on the clothing of any person or on motor vehicles unless otherwise prohibited in accordance with § 9-826 hereof.

(c) Auxiliary signs. Auxiliary signs placed in store windows regarding hours of operation, accepted charge cards, warnings or similar information.

(d) Business nameplates. Non-illuminated nameplates not exceeding 1 square foot which denote the business name of an occupation legally conducted on the premises. Only 1 nameplate per proprietor shall be permitted.

(e) Construction signs. One sign per street frontage not exceeding 32 square feet in area. Such signs may indicate the architect, engineer or contractor and can be installed upon application of a building permit and removed upon the issuance of a certificate of completion.

(f) Flags and pennants. Flags and pennants at educational, governmental, or eleemosynary institutions which are not displayed for commercial purposes and are not greater than 50 square feet in size. A maximum of 4 flags or pennants per site may be displayed. The pole height shall be limited to the zoning district height limitation.

(g) Garage sale signs. Signs advertising garage sales, yard sales or house sales, on the day(s) that the sale is actually taking place, which do not exceed 4 square feet. No more than 2 signs per sale shall be permitted, with 1 sign per street frontage on the premises containing the sale.

(h) Government signs. Traffic signs, regulatory signs, municipal sign, legal notices, railroad crossing signs, danger signs and such temporary emergency or noncommercial signs as may be approved by the city manager or designee, governmental banners whether decorative or informational in nature.

(i) Gravestones.

(j) Historical site plaques.

(k) Inside faces of scoreboard fences or walls on athletic fields.

(l) Interior signs. Signs which are located on the interior of premises and which are primarily oriented to persons within the premises.

(m) Memorial plaques or tablets.

(n) Monument signs. Plaques, tablets, cornerstones, or lettering inlaid into the architectural materials of a building or structure not exceeding 4 square feet, denoting the name of that structure and date of erection.

(o) Promotions/special displays. A non-animated display or promotion, including the use of bunting, flags or pennants, which shall be permitted for one (1) period in each calendar year for a maximum of nine (9) days. A separate permit for such display or promotion shall be required for each instance of its use. The display of American flags shall be allowed on a permanent or temporary basis without a permit, provided that each flag does not exceed 24 square feet. The pole height shall be limited to the zoning district height limitation.

(p) Real estate signs. Signs pertaining to the sale, rental, management or lease of real property, referred to in this section as "real estate signs," subject to the following conditions:

(i) Real estate signs shall be non-illuminated, and no more than 1 sign per street frontage shall be posted on any property.

(ii) No real estate sign pertaining to residential property may contain more than 4 square feet, excluding the post. When computing the 4-square-foot area, any marking or symbol which identifies a real estate licensee or group of real estate licensees shall be included.

(iii) A placard stating "Open House" may be temporarily erected on or above a residential sign on the subject property and 1 off-premises directional sign may be permitted on private property.

(q) Signs or flags erected, provided, owned, authorized or required by duly constituted governmental body, including, but not limited to, traffic or similar regulatory devices, legal notices, or warnings at railroad crossings.

(r) The display of street numbers.

(39) "Sign area." (a) Sign area shall mean for all signs except on-premise attached signs (as defined in § 9-802), the area within the rectangle (or any other geometric configuration) which is defined by the larger of

(iv) The lines which include the outer extremities of all letters, figures, characters, messages, graphics or delineations on the sign structure, or

(v) The lines which include the outer extremities of the framework or background of the sign structure or device, without limitation. The support for the sign background, if it be columns, a pylon, or a building or part thereof, shall not be included in the

sign area unless it forms a part of the message of the sign to which it is attached. Other devices such as balloons, inflatables, etc. shall be included in the sign area, whether or nor forming a part of the message of the sign. On any sign structure which has multiple sign faces, any sign faces which are separated by an angle of less than sixty (60) degrees as measured from the rear of each sign face, shall be counted separately in computing sign area; if the angle of separation of the backs of sign faces exceeds sixty (60) degrees, then all such faces shall be included together in the computations of any sign area. The sign area of a sign made of individually cutout letters is the area of the rectangle necessary to enclose all such letters.

(b) For attached on-premise signs, the foregoing definition of subparagraph (a) shall also apply, except that if any word, symbol, or group of words or symbols which would otherwise be included within the rectangle defined above are separated from another word, symbol or group of words or symbols by a distance of greater than three (3) times the height of the largest letter or symbol within such word, symbol, or group of wards or symbols, then separate rectangles may be used to calculate sign area, and the total of all such rectangles shall then be considered as the "sign area."

(c) The foregoing definition is applicable to all signs and when used in the context of a maximum or "not to exceed" sign area has reference to the sign area facing in any one direction. If a particular sign or sign structure faces in more than one (1) direction the maximum sign area or the "not to exceed" area refers to each side of a sign and not to the total sign area of the combined faces of the sign.

(40) "Snipe sign." Snipe sign shall mean any on-premise sign for which a permit has not been issued which is attached in any way to a utility pole, tree, rock, fence or fence post.

(41) "Special event." Special event shall mean a short-term event of unique significance not in excess of thirty (30) days; such term shall include only grand openings, health-related promotions or health-related service programs (i.e., flu shots clinic, blood donation drives, chest x-ray clinic, etc.), going-out-of-business sales, promotions sponsored by a governmental entity, fairs, school fairs, school bazaars, charity runs, festivals, religious celebrations and charity fundraisers, and shall not include other sales or promotions in the ordinary course of business.

(42) "Temporary sign." Temporary sign shall mean any on-premise sign permitted specifically and exclusively for a temporary use as allowed under the provisions of § 9-826 through § 9-827.

(43) "Wall graphics or wall murals." Wall graphics or wall murals shall mean a painted scene, figure or decorative design so as to enhance the building

architecture, and which does not include written trade names, advertising or commercial messages.

(44) "Width." Width shall mean the total measurement of the horizontal side of the rectangle or other geometric figure which is used to calculate "sign area" as specified in § 9-802. (1975 Code, § 5-802, as replaced by Ord. #03-875, June 2003, and amended by Ord. #08-938, Feb. 2008)

9-803. License required for erecting off-premises signs and detached on-premises signs. No person shall carry on the business of erecting or posting or maintaining off-premise signs or detached on-premise signs (as defined in § 9-802) without having secured a business license from the city to carry on such business. Persons holding a license under the provisions of the section of the Red Bank city code which formerly regulated this activity shall have a grace period of sixty (60) days after final passage of this chapter to obtain a new license. (1975 Code, § 5-803, as replaced by Ord. #03-875, June 2003)

9-804. Reserved. (1975 Code, § 5-804, as replaced by Ord. #03-875, June 2003)

9-805. Disposal of glue, paste, waste material. No person shall scatter, daub or leave any glue, paste, adhesive material or other like substance for affixing signs upon any street or sidewalk or public right of way or scatter or throw any old signs or waste material resulting from the erection or maintenance of signs or removal from signs on the surface of any public property, street or sidewalk or upon any private property. (1975 Code, § 5-805, as replaced by Ord. #03-875, June 2003)

9-806. Permit required to erect, maintain sign. (1) Except as specified in subsection (2) of this section, any person must obtain a sign permit from the building inspector prior to the erection, installation or material alteration of any sign. As used in the preceding sentence, the term "material alteration" shall mean any change in

(a) The height of a sign,
(b) The sign area of a sign,
(c) The location of a sign,
(d) The supporting structure of a sign,
(e) The number of words in excess of six (6) inches in height for an attached sign;

such term shall not include routine maintenance and repair or electrical work only for which an electrical permit must be obtained. Such sign permit shall be obtained in addition to any building permit otherwise required by this code.

(2) No sign permit shall be required for any of the following on-premise signs:

(a) Construction signs, as defined in § 9-802.
(b) Incidental signs, as defined in § 9-802.
(c) Wall graphics or wall murals, as defined in § 9-802.
(d) Signs advertising the sale or lease of real estate which are located upon the real estate offered for sale or lease, provided that such signs do not exceed four (4) square feet in sign area.
(e) Entrance and exit signs regulated by § 9-836.
(f) Landmark signs, as defined in § 9-802.
(g) Signs for special events as allowed in § 9-831.
(h) Banners thirty-two (32) square feet or less in sign area. (1975 Code, § 5-806, as replaced by Ord. #03-875, June 2003)

9-807. Application for sign permit; notification to building inspector; expiration and renewal of permits. Application for the sign permit required by the proceeding section shall be made to the building inspector concurrently with an application for a building permit if required and shall be accompanied by such drawings, plans, specifications and engineering designs in compliance with the provisions of the then current Standard Building Code most recently adopted by the City of Red Bank for the proposed sign as may be necessary, in the judgment of the city inspector or city engineer, to fully advise and acquaint the building inspector and the city engineer with the proposed construction thereof. The application shall also include the owner and address of the premises where such sign is to be located, together with the size of the proposed sign, and a description of any other signs located on such premises or for which a permit has been issued and remains outstanding. Any application for a sign permit or temporary sign permit shall be approved or denied by the office of the building inspector within ten (10) business days, excluding holidays recognized by the City of Red Bank, after the filing of the application for such permit, and in the event the office of the building inspector does not approve or deny an application within said period, the applicant may refer the matter directly to the city manager who shall require action thereon. Notwithstanding the provisions of the foregoing sentence the office of the building inspector may grant contingent approval subject to on-site inspection in cases where an applicant for a temporary sign permit requires immediate attention on the application.

The owner of any sign for which a new sign permit is required, and which permit has been granted, shall notify or cause to be notified the office of the building inspector of the date the erection or material alteration of the sign will begin not less than forty-eight (48) hours prior to the beginning of such work. Such owner shall also notify or cause to be notified the office of the building inspector of the completion of such work within forty-eight (48) hours after completion of such work. The failure to give or cause to be given either of the notices set forth in this paragraph shall constitute a violation of this chapter and

shall subject any sign erected without both of the above notices having been given to abatement as a nuisance.

Any sign for which any permit has been issued but for which no substantial expenditures have been made as of the effective date of this chapter shall only be erected in accordance with the provisions of this chapter except that no additional initial permit charge will be required for any permit which has already been issued and for which a permit fee has been paid.

Any sign permit issued pursuant to this chapter for the erection of a sign shall expire ninety (90) days from the date of its issuance in the event such sign has not been fully erected within said ninety (90) days, provided, that upon good cause shown to the building inspector such permit may be renewed one time for a period not to exceed ninety (90) additional days. If a permit is requested for a location on which a valid permit is already outstanding but has not expired, and upon which no sign has been erected, and if such subsequent permit is requested by a person other than the holder of the outstanding permit, the office of the building inspector shall file, without fee, such application for the subsequent permit. In the even the outstanding permit expires without a sign being erected, as set forth above, the next valid permit application on file with the building inspector shall be processed upon payment of the required fee. (1975 Code, § 5-807, as replaced by Ord. #03-875, June 2003)

9-808. No permits to be issued in violation of ordinances; approval of city engineer; schedule of permit fees; yearly maintenance and safety inspection fee; inventory of certain existing signs. The building inspector shall not issue any sign permit for any sign which is not in conformance with the city code of Red Bank and applicable state laws, including but not limited to all electrical codes of the City of Red Bank or State of Tennessee; any permit issued which does not so conform will be null and void and any sign constructed pursuant thereto shall be removed in accordance with the provisions of this chapter. For all off-premise signs, freestanding on-premise and temporary signs, the building inspector shall issue no permit without the approval of the city engineer. The building inspector shall collect a permit fee with the application for each sign or sign structure. The permit fee shall be as follows:

(1) For off-premise signs, two hundred ($200.00) dollars for each such sign.

(2) For on-premise signs other than temporary signs, one hundred fifty ($150.00) dollars for each detached sign and each electric or illuminated sign, and a total of fifty ($50.00) dollars per premises for all other signs. Any on-premise sign, other than a detached sign or electric or illuminated sign, which conforms with this chapter and which replaces any other on-premise sign for which a permit has been issued hereunder, shall not require the issuance of a new permit nor the payment of the permit fee.

The owner of each off-premise sign, freestanding on-premise sign and projecting on-premise sign and/or balloons, blimps or other similar devices shall pay to the office of the building inspector an annual maintenance, compliance and safety inspection fee of twenty-five ($25.00) dollars per sign face. The annual maintenance, compliance and safety inspection for a sign shall not be collected unless and until such sign has been inspected by a representative of the office of the building inspector. The office of the building inspector may place upon any sign subject to annual maintenance, compliance and safety inspection a sticker or other device to indicate the date of such inspection, provided that such sticker or device shall not interfere with the message of such sign. The annual maintenance, compliance and safety inspection fee for each sign shall be due and payable on April 15 of each calendar year and shall be delinquent if unpaid within thirty (30) days thereafter. A ten (10%) percent annual delinquent charge shall be added to any annual maintenance, compliance and safety inspection fee which remains unpaid after May 15 of the calendar year in which such fee is due. The office of the building inspector shall cause notices of the annual maintenance, compliance and safety inspection fee to be mailed to the owner of each sign subject to such fee on or before March 15 of each calendar year and shall cause delinquency notices to be mailed as soon as possible after May 15. No new sign permit or temporary sign permit shall be issued to any owner of any sign for which the annual maintenance, compliance and safety inspection fee and the delinquent charge thereon remains unpaid after May 15 in the calendar year in which such fee became due unless such sign(s) and supporting sign structure(s) shall be abated by action of the building inspector. If the annual maintenance, compliance and safety inspection fee and the delinquent charge thereon remain unpaid on a sign more than one hundred eighty (180) days after the date of the delinquent notice, such sign shall be subject to the provisions of § 9-809, § 9-812 through § 9-815, inclusive.

Every person maintaining an off-premise sign or signs or any on-premise detached sign as of the effective date of this chapter shall, within one hundred twenty (120) days of said effective date, furnish to the office of the building inspector an inventory of all such signs; said inventory shall specify the exact location, measurements and size (including sign area as defined in § 9-802) of each sign, provided, that such persons who have previously furnished such inventory shall not be required to furnish a new inventory. In lieu of such inventory, persons maintaining such signs may furnish or mail to the office of the building inspector a photograph of each sign for which an inventory is required together with the name of the owner of the premises on which the sign is located, the occupant of such premises if different from the owner, the name of the business(es) located on such premises in the case of an on-premise sign, and the full address of such premises. The failure to file the inventory for a sign as specified herein shall create a rebuttal presumption that such sign was erected subsequent to the effective date of this chapter. (1975 Code, § 5-808, as replaced by Ord. #03-875, June 2003)

9-809. Power to revoke permit; remedies for violation. (1) If any sign permit is issued based upon any false or untrue information which is material to the application and the granting of a sign permit, the building inspector shall revoke any such permit and order the removal of such sign within thirty (30) days.

(2) If the building inspector determines that any sign erected pursuant to a permit issued under the provisions of this chapter is in violation of any provision of this chapter by error in the construction of the sign, the building inspector shall

(a) Notify the holder of the permit of the nature of the non-compliance and allow the holder a reasonable amount of time, but not less than fifteen (15) days nor in excess of sixty (60) days, to correct the defects giving rise to the non-compliance; or

(b) If such non-compliance cannot be corrected, to require the removal of the non-complying sign within thirty (30) days of the expiration of the period for correction specified above.

(3) If any sign is erected without a sign permit but is otherwise erected in compliance with the provisions of this code, the building inspector may upon proper application for a sign permit and payment of double the normally required permit fee issue a sign permit for such a sign, provided, however, that any such permit so issued shall in no event operate to relieve the person so erecting a sign without a permit from any penalties provided by this chapter until such permit has been issued. (1975 Code, § 5-808.1, as replaced by Ord. #03-875, June 2003)

9-810. Owner's name required on off-premise signs. No sign permit shall be issued to any applicant to erect an off premise sign unless the applicant agrees to place and maintain on each such sign the name and permit number of the person or entity owning or in possession, charge or control thereof. The building inspector shall verify that the name and permit number of the person or entity owning or in control of such sign is placed upon the same forthwith upon the erection of such sign and kept thereon at all times while such sign is maintained. (1975 Code, § 5-809, as replaced by Ord. #03-875, June 2003)

9-811. Non-conforming. (1) Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of any prior ordinance or ordinances of the City of Red Bank, Tennessee, and such signs so erected in violation of any prior ordinance or ordinances shall be subject to removal upon notice from the city. Signs which are now in existence and were constructed in the compliance with the terms of any prior ordinance or ordinances of the City of Red Bank, Tennessee, but which are not in conformance with the provisions of this chapter are hereby designated as legal, non-conforming signs.

(2) For off-premise signs, any person owning, controlling or having a substantial ownership interest in any illegally erected or maintained non-conforming off-premise sign(s) shall remove all such illegally erected and maintained off-premise sign and its supporting structure prior to the issuance of any off-premise sign permit to such person until such person no longer owns, controls or has a substantial ownership interest in any illegally erected or maintained non-conforming off-premise signs. Evidence of the removal of an illegally erected and off-premise sign shall be furnished to the satisfaction of the building inspector. As used herein, "substantial" ownership interest shall mean any ownership interest in excess of five (5%) percent of the total ownership interest. (1975 Code, § 5-810, as replaced by Ord. #03-875, June 2003)

(3) For on-premise signs, any occupant (as defined in § 9-802) who applies for a new sign permit for any on-premise detached sign shall be required to either remove all legal non-conforming detached signs and the devices designated in § 9-802 on the area of the property occupied by such occupant, or to bring such non-conforming signs into conformance with the provisions of this chapter, before any new permit may be issued. Any occupant who applies for a new sign permit for any on premise attached sign shall be required to either remove all legal nonconforming attached signs and the devices designated in § 9-802 on the are of the premises occupied by such occupant, or to bring such nonconforming signs into conformance with the provisions of this chapter, before any new sign permit may be issued.

(4) Notwithstanding any other provision of this chapter, any person using a portable sign, balloon sign or banner for which a temporary sign permit must be obtained on the effective date of this chapter must obtain a temporary sign permit as required by § 9-826 and § 9-827 within sixty (60) days of the effective date of this chapter and thereafter may use temporary signs only in accordance with the provisions of this chapter. (1975 Code, § 5-810, as replaced by Ord. #03-875, June 2003)

9-812. Violation declared misdemeanor; penalty. Any person who shall violate any provision of this chapter, or any person who shall fail or refuse to comply with any notice to abate or other notice issued by the building inspector within the time allowed by such notice, shall be guilty of a misdemeanor; each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. Each violation of this chapter shall be punishable by a fine of up to fifty ($50.00) dollars, and each day of continuing violation is deemed a separate and continuing offense, punishable by up to fifty ($50.00) dollars for each day of violation. (1975 Code, § 5-811, as replaced by Ord. #03-875, June 2003)

9-813. Violations declared nuisances; pre-existing violations. The maintenance of any unused sign and/or its supporting structure or any violation of the provisions of this chapter by any person is declared to be a public nuisance

dangerous to the public safety and shall be abated as set forth in this section. Any sign for which the annual safety inspection fee remains unpaid more than one hundred eighty (180) days after the delinquent notice of such fee pursuant to § 9-807 of this chapter is declared to be a public nuisance and shall be abated as set forth in this section. For the purposes of this section, "unused sign" shall include any sign which

(1) Has not displayed a message or messages for more than ninety (90) days or

(2) Is not kept in good structural repair or

(3) For which the sign face contains a physically and/or visibly deteriorated torn, weathered, chipped, peeling message or

(4) Any violations of the electrical code and/or any other applicable city adopted code, such that the sign could pose a risk to public health or safety.

Except for temporary signs regulated by § 9-826 and § 9-827 of this chapter, every sign to which the provisions of this chapter shall apply that was legally erected prior to the effective date of this chapter and was in use on said date, but which violates any of the provisions of this chapter, shall not be subject to removal, provided, that the owner of any legal nonconforming off-premise sign shall obtain (without charge) within sixty (60) days of the effective date of this chapter a permit from the building inspector which permit shall be marked on the face thereof: "non-conforming sign permit". In the event that there shall be future non-use of any legal non-conforming on-premise or off-premise sign and/or its supporting structure for more than ninety (90) days, said non-conforming sign and its supporting structure shall then be removed forthwith within the time allowed in the notice required by § 9-814 or the building inspector may cause said removal to be done as provided in this chapter. (1975 Code, § 5-812, as replaced by Ord. #03-875, June 2003)

9-814. Notice requiring abatement of violation; abatement by city lien for costs. Upon ascertaining a violation of the provisions of this chapter, the building inspector shall cause to be served upon both the offender, or his agent, and upon the owner, or his agent, or the occupant(s) of the premises, a written notice to abate such violation(s) which shall

(1) Describe the conditions constituting a nuisance under this chapter, and

(2) State that the nuisance may be abated by the city at the expense of the offender, and/or owner, and/or the occupant of the premises at the expiration of not less than fifteen (15) days nor more than sixty (60) days from the date of such notice if such condition is not corrected by the person in control of given to abate the constituting a nuisance be corrected or that the offender, or the owner, or the occupant, or the premises. If, at the expiration of the time the nuisance described in said notice to abate, the condition has not been corrected, then such condition may be abated by the city at the expense of the

offender and/or the owner and/or the occupant of the premises under the directions of the building inspector.

Provided further, in the event of an emergency which, in the opinion of the city inspector or city engineer justifies immediate action to protect the health and safety of persons and/or to protect property, the city may take such steps as are necessary, without notice, to abate the condition or situation. In any such event(s), the city shall have a lien on the sign structure and upon property upon which such sign is located to secure the amount expended for the abatement of such nuisance; the amount expended for the abatement of such nuisance, including attorney fees and costs of enforcement, and shall include all unpaid annual maintenance and safety inspection fees and delinquent charges due for such a sign. (1975 Code, § 5-813, as replaced by Ord. #03-875, June 2003)

9-815. Appeals. An appeal to the city manager from any adverse decision of the building inspector may be filed in writing with the city recorder within ten (10) days from any such decision; the city manager shall, within fifteen (15) days of the filing of the appeal, set a date upon which a hearing before the board shall be held; the city manager shall promptly notify the person filing the appeal of the hearing date. The decision of the city manager upon any such appeal shall be final. The provisions of this section shall not be construed to allow the city manager to grant any variance or special exception to the provisions of this chapter, and the jurisdiction of the city manager upon any such appeal shall extend only to questions of fact and to questions involving the interpretation of the provisions of this chapter. (1975 Code, § 5-814, as replaced by Ord. #03-875, June 2003)

9-816. Obscene displays on signs. No person shall post or paint, or cause to be posted or painted, or otherwise caused to be displayed so that the same can be seen from the streets or other public places of the city, any advertisements or materials containing pictures or illustrations of any obscene character. For the purpose of this section "obscene" shall have the same meaning as provided in Tennessee Code Annotated, § 39-17-901, as now enacted or hereafter amended. (1975 Code, § 5-815, as replaced by Ord. #03-875, June 2003)

9-817. Signs over streets, sidewalks; where other advertising prohibited. (1) No sign of any kind shall be permitted to project over or be suspended over or across any street or sidewalk except in accordance with the limitation provided in the definition of a "projecting sign" in § 9-802 of this chapter.

(2) No person shall paste, paint, print, rope, bill, nail or pin any sign or any advertisement or notice of any kind whatsoever or cause the same to be done, on any curbstone, or in any portion or part of any sidewalk or street, tree,

lamppost, telephone or telegraph pole, awning, porch or balcony, or upon any other structure in the limits of any street or public right-of-way in the city, except such as may be required by this code or other city ordinance.

(3) When any sign of the type enumerated in this section is found in any place prohibited by this section, it shall be prima facie evidence that such sign was so placed contrary to the provisions of this section by the person to whom reference is thereby made. (1975 Code, § 5-816, as replaced by Ord. #03-875, June 2003)

9-818. Change of sign classification - removal. If for any reason an off-premise sign becomes an on-premise sign, such on-premise sign and its supporting structure shall be removed within thirty (30) days of the change of classification unless such sign is in compliance with all of the provisions of this chapter governing on-premise signs. If for any reason an on-premise sign becomes an off-premise sign, such off-premise sign and its supporting structure shall be removed within thirty (30) days unless such sign is in compliance with all of the provisions of this chapter governing off-premise signs. (1975 Code, § 5-817, as replaced by Ord. #03-875, June 2003)

9-819. Signs distracting to motor vehicle operators prohibited. Where there are entrance and exit ramps to any controlled access facility, or a confluence of traffic, or anywhere else where operators of vehicles might be required to make sudden decisions in order to safely operate their vehicles, then no signs shall be permitted or allowed that will be or are or may reasonably be distracting to drivers and thereby hazardous and dangerous to the traveling public. Additionally, and regardless of location, no off-premise or on-premise sign shall have moving parts, picture tubes, lights or illumination that vary in intensity, flash or change color, except

(1) That tri-vision off-premise signs with moving parts shall be permitted,

(2) On-premise message centers shall be allowed provided a special permit has been obtained pursuant to the provisions of this chapter, and

(3) On-premise signs displaying current time and/or temperature only through the use of lights that vary in illumination or intensity shall be allowed, provided that each display shall remain constant for a minimum of not less than four (4) seconds.

No signs that resemble any regulatory or warning traffic control device or sign as found in the latest edition of the Manual of Uniform Traffic Control Devices for Streets and Highways as now existing or hereafter amended shall be permitted. No sign shall emit any sound or sounds, audible to the human ear without amplification or exceeding ten (10) decibels. (1975 Code, § 5-820, as replaced by Ord. #03-875, June 2003)

9-820. General off-premise sign regulations. Unless otherwise provided in this chapter, the following regulations shall govern the construction and maintenance of any off-premise sign within the city.

(1) No sign shall exceed thirty-five (35) feet in height or fifty (50) feet in width, more particularly, the highest portion of a sign or sign structure shall not exceed the lower of

(a) Thirty-five (35') feet above the closest point, measured vertically, on the grade of the slope of the real estate upon which the sign or sign structure is located if the sign or sign structure is located on a higher grade than the finished grade of the public road towards which the sign is principally oriented and from which it is principally intended to be viewed; or

(b) If the sign or sign structure is located on the same or on a lower grade than either the roadway toward which it is principally oriented or the roadway to which it is (measured horizontally) nearer, whichever roadway is nearer, then thirty-five (35') feet above the closest point on the top of the finished grade of either the roadway toward which it is principally oriented or the roadway to which it is (measured horizontally) nearer, whichever roadway is nearer.

(2) No sign area shall exceed seven hundred fifty (750) square feet and no new off premises sign with a sign area exceeding seven hundred fifty (750) square feet shall be permitted or erected in the City of Red Bank.

(3) Sign structures supporting an off-premise sign of any size shall be spaced not less than seven hundred (700) feet apart regardless of the direction in which any such sign is facing; said spacing shall only apply to signs on the same side of the street, provided, however, that any off-premise sign located within three hundred (300) feet of the center of any intersection of two or more roads shall be spaced not less than three hundred fifty (350) feet in all directions from any other off-premises sign of any size.

(4) (Reserved)

(5) Off-premises shall be located no closer than twenty (20) feet to the closest edge of any public right-of-way, no closer than ten (10) feet to the property line of any adjacent commercially zoned real property and no closer than twenty-five (25) feet to the property line of any adjacent residentially owned property.

(6) No sign shall be erected so that the lowest portion of the sign face is less than twelve (12) feet, measured vertically, from the closest point on the grade of the real estate upon which the sign or sign structure is located.

(7) No sign shall be permitted on top of any building or roof-top.

(8) No sign face shall be permitted atop or beneath another sign face, i.e., no "stacked" signs are permitted on any sign structure, building or rooftop.

(9) No sign shall be located where prohibited or not permitted by the Red Bank Zoning Ordinance, as amended, or as may hereafter be amended.

(10) Notwithstanding any other provision contained within this section, nothing contained herein shall be construed to prohibit the erection and maintenance of a single "public interest direction marker," as otherwise defined herein by any public buildings, hospitals, places of worship, public libraries, public museums, public parks, cemeteries and/or other public facilities provided that:

(a) There shall be no more than one (1) public interest directional marker for any one entity. Such public interest directional marker shall be located only on C-1 commercial zoned private property and with written permission from the private property owner and shall under no circumstances be located on the public right-of-way for any street, road or highway.

(b) In the judgment of the city manager, or his or her designee, such public interest directional marker does not impair traffic site lines or any use of any adjacent sidewalk or right-of-way.

(c) The public interest directional marker shall not exceed two (2) square feet in total area.

(d) The owner shall provide, on forms supplied by the city, contact information for the person responsible for maintenance and a signed agreement that the sign or placard may be removed if required by the owner of the adjoining premises, and further agreeing that the city may require removal if, in its judgment, the public interest requires its removal at any time in the future.

(e) That any public interest directional marker shall be located not more than one-half (1/2) mile (two thousand six hundred forty feet (2,640')) from the nearest corner of the property of the entity to which it is intended to direct attention.

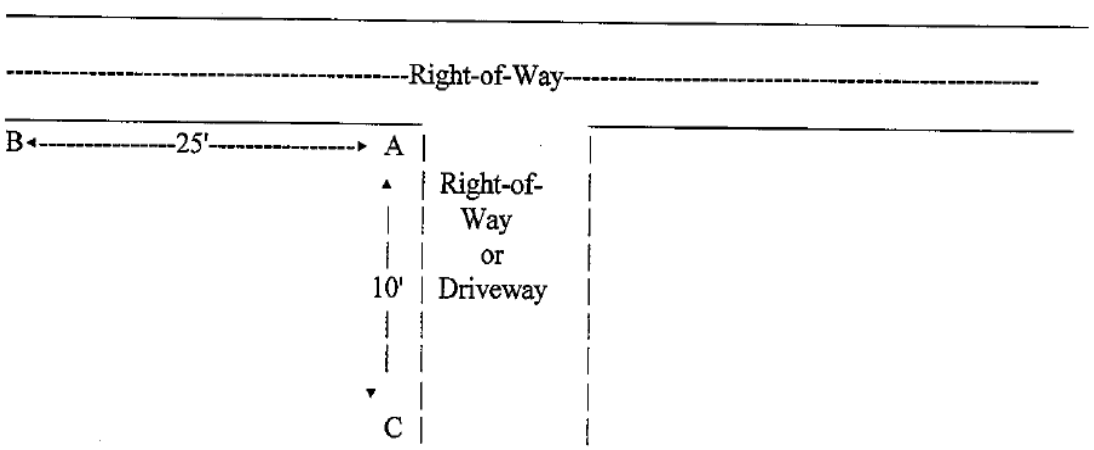
(f) Maintenance of visibility at access points. No structure, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, sign or other material impediment to visibility between the heights of three feet (3') and height feet (8') shall be permitted within a triangular area bounded by imaginary lines connecting three (3) points as described and illustrated below:

Point A	At the intersection of any public right-of-way with another right-of-way, either pubic or private drive, the point of intersection nearest approaching traffic.
Point B	Beginning at Point A, proceeding along the boundary line of the public right-of-way toward the direction of oncoming

traffic for a distance of twenty-five feet (25') to a second point: Point B.

Point C Beginning at Point A, proceeding along a line perpendicular to the public right-of-way and generally along the edge of the private driveway (or public right-of-way) toward the interior of the lot for a distance of ten feet (10') to a third point: Point C.

Example:



(1975 Code, § 5-821, as replaced by Ord. #03-875, June 2003, and amended by Ord. #08-938, Feb. 2008)

9-821. Scenic areas and scenic corridors. This section shall govern the erection of off-premise signs and certain on-premise signs in scenic areas and scenic corridors. (1975 Code, § 5-822, as replaced by Ord. #03-875, June 2003)

9-822. Scenic areas. There are hereby established the following scenic areas, in which off-premise signs shall be prohibited as set forth herein: (Reserved)

(as added by Ord. #03-875, June 2003)

9-823. Scenic corridors established. (1) There is hereby reaffirmed and reestablished a scenic corridor, which shall consist of those certain strips of land which are located within six hundred sixty (660) feet on either side of the outermost edge of the right-of-way of U.S. Highway 27 (also known as State Route 29 and sometimes referred to as Corridor J) from the southernmost city limits to the northernmost city limits of the City of Red Bank.

(2) There are hereby established as scenic corridors, which shall consist of those certain strips of land which are located within six hundred sixty (660') feet on either side of the outermost edge of the right-of-way lines of:

(a) Dayton Boulevard, from the southernmost city limits to the northernmost city limits of the City of Red Bank;

(b) Ashland Terrace, from its intersection with Dayton Boulevard to the Chattanooga city limits;

(c) Signal Mountain Road, from its intersection with Dayton Boulevard to the Chattanooga city limits.

(d) Morrison Springs Road from Dayton Boulevard to the Chattanooga city limits. (as added by Ord. #03-875, June 2003)

9-824. Off-premise signs along scenic corridor or within scenic areas prohibited. No off-premise signs shall be permitted within the scenic corridors or within scenic areas established per the provisions of § 9-822 and § 9-823, supra. (as added by Ord. #03-875, June 2003)

9-825. Prohibited on-premises signs and devices. (1) Use of the following on-premise signs shall be prohibited:

(a) Portable signs, except where specifically permitted for an authorized temporary use in accordance with this chapter.

(b) Banners in excess of thirty-two (32) square feet in sign area, except where specifically permitted for an authorized temporary use in accordance with the provisions of § 9-829 and § 9-830 hereof, and provided in no event may any banner be displayed unless it is secured on all corners in a manner designed to prevent excessive movement in the wind.

(c) Snipe signs.

(d) Roof signs, except balloon signs which may be permitted as temporary signs under § 9-827 through § 9-830 of this chapter.

(e) Any sign printed on or attached to a vehicle and used as a stationary sign.

(f) Freestanding signs with moving parts, flashing or blinking lights, animation or sound-emitting devices (excluding two-way communication devices used solely for such two-way communication), except

(i) That permanently attached message centers shall be permitted, provided, that a special permit is obtained pursuant to this chapter, and

(ii) That signs displaying current time and/or temperature only through the use of lights that vary in illumination or intensity shall be allowed, provided, that each display shall remain constant for a minimum of at least four (4) seconds.

(2) Except as provided in § 9-839 the use of streamers, pennants, pinwheels, flags (other than those permitted by § 9-839), tinsel and any other device which hangs freely and is intended to be wind-activated or to circulate, flap, rotate, blow or otherwise be put in motion by the wind shall be prohibited. The devices prohibited by this subsection (2) may be maintained following the effective date of this chapter but shall not be replaced following the effective date of this chapter, provided, however, that all devices (excepting flags as otherwise permitted by § 9-839) prohibited by this subsection (2) shall be removed no later than twelve (12) months after the effective date of this chapter.

(3) Any sign with a sign area exceeding one hundred seventy-five (175) square feet. (as added by Ord. #03-875, June 2003)

9-826. Authorized use of temporary signs, banners and special events. Banners in excess of thirty-two (32) square feet, portable signs and balloon and inflatable signs shall be allowed on-premise for certain temporary uses only. A temporary sign permit shall be required prior to placement or erection of such sign or banner. Each occupant of a premises shall be entitled to obtain a temporary sign permit. Any such temporary sign permit shall be issued only in accordance with the following:

(1) Permit fee and display of permit. A permit fee of ten ($10.00) dollars shall be charged for the issuance of each temporary sign permit and upon issuance such temporary sign permit shall be securely affixed to and readily viewable on the temporary sign.

(2) Limit on use of temporary signs. No person or occupant shall be eligible for issuance of temporary sign for more than a total of one hundred five (105) days during any calendar year, and no occupant or premises shall be allowed to use more than one (1) temporary sign at a time.

(3) Time limit for display of temporary signs. All temporary sign permits shall state an effective date and an expiration date; such permits shall be issued only for fifteen (15) or thirty (30) day increments. Any temporary sign and its supporting structure (including balloons) permitted under this chapter shall be removed at or before 11:59 P.M. of the expiration date on the temporary sign permit notwithstanding any other provision of this chapter, unless the temporary sign permit for such sign is renewed as set forth in subsection (5). No occupant may obtain a temporary sign permit until the expiration of thirty (30) days from the end of such occupant's last temporary sign permit period or renewal period, whichever is later.

(4) Size and placement of temporary signs. No temporary sign shall exceed three hundred (300) square feet in sign area. No temporary sign shall be placed closer than ten (10) feet to any public right-of-way, and no temporary sign may be placed in any public parking space. No part of any temporary sign may be located within forty (40) feet of two (2) public rights-of-way.

(5) Renewal of permit. A 15-day temporary sign permit may be renewed once for an additional consecutive fifteen (15) day period; such renewal

may be made by telephoning or visiting the office of the building inspector prior to the expiration date of the initial permit, and no fee shall be charged for such renewal. (as added by Ord. #03-875, June 2003)

9-827. Removal of temporary signs. Notwithstanding any provision of this chapter to the contrary, the building inspector shall, upon ascertaining a violation of the provisions of this chapter, cause a written notice to abate such nuisance to be served upon the offender, or his agent, and upon the owner or occupant of the premises and/or to be such notice shall require, abatement of such nuisance within not less than twenty-four (24) nor more than forty-eight (48) hours from the time of such notice. Notwithstanding the foregoing, if a violation of the provisions of this chapter is willful and intentional the building inspector shall issue a citation to city court to such offender in addition to or in lieu of any notice to abate served upon such offender. (as added by Ord. #03-875, June 2003)

9-828. Balloon signs. No balloon or other inflatable device upon which a balloon sign is displayed shall exceed a height of thirty (30) feet above the lowest point of the ground or building over which the balloon is situated. No more than two (2) banner signs will be permitted on any balloon. No part of any balloon sign or balloon shall be located closer than thirty (30) feet from any public right-of-way. Any banner sign affixed to a balloon must be mounted flush to the balloon. A banner sign attached to a balloon may not exceed on hundred twenty (120) square feet in surface area, provided, however, that any banner sign attached to a balloon any part of which is within sixty (60) feet of any public right-of-way may not exceed one hundred (100) square feet in surface area. (as added by Ord. #03-875, June 2003)

9-829. Banners. Banners which are not in excess of thirty-two (32) square feet in sign area shall require no sign permit but shall be subject to the remaining provisions of this chapter, provided, however, that such banners shall not be used in computing sign area for the purposes of § 9-830(1) or § 9-831. Banners shall be allowed as on-premise signs only. An occupant may display only one (1) banner (whether attached or detached), regardless of sign area, at a time. (as added by Ord. #03-875, June 2003)

9-830. Special events. (1) The sponsor of a special event lasting three (3) days or less shall not be required to obtain a sign permit but shall notify the building inspector of such event in writing no less than five (5) business days before the beginning of such event; such notification shall include the name of the sponsor, the location of the event, the owner of the location, the dates of the event, and the type of special event. The sponsor of a special event lasting more than three (3) but no more than thirty (30) days shall obtain a special permit

from the board of sign appeals prior to the beginning of such event. Such special permits shall be granted only in increments of fifteen (15) days.

(2) The sponsor of a special event may use temporary on-premise signs, flags, lights, pennants, streamers, balloons, balloon signs and banners during the special event provided, that the use of such signs and devices shall be subject to §§ 9-816, 9-817, 9-819, 9-827, 9-828, 9-835 and 9-836 of this chapter and to any conditions placed upon such used by the city manager where a special permit must be obtained.

(3) No part of any sign or other device for a special event may be placed closer than ten (10) feet to any open public right-of-way . No part of any sign or other device for a special event may be located within forty (40) feet of two (2) open public rights-of-way.

(4) All signs and other devices for a special event shall be promptly removed after the end of the special event and in no case shall such signs and devices remain on display longer than thirty-six (36) hours after the end of the special event.

(5) No sponsor may display signs and devices for special events pursuant to this section on the same premises for more than a cumulative total of thirty (30), days per calendar year. No occupant may display signs and devices for special events pursuant to this section for more than a cumulative total of thirty-six (36) days per calendar year. Each special event lasting three (3) days or less shall be counted as three (3) days for the purposes of this section. (as added by Ord. #03-875, June 2003)

9-831. General regulation of permanent on-premises signs. Other than signs which are prohibited under the provisions of this chapter or which are permitted as temporary signs pursuant to this chapter, the section hereinafter shall regulate the general use of on-premise signs. (as added by Ord. #03-875, June 2003)

9-832. Number and size of permitted on-premise signs. (1) Each premises shall be allowed no more than two (2) detached signs for each public street upon which the premises fronts (excluding public and private alleyways), provided that not more than two (2) detached signs shall be primarily oriented towards any such public street.

(2) In addition, each occupant of a premises who leases a building which is freestanding and unattached to any other building on such premises shall also be allowed one (1) detached sign for each public street upon which occupant's building fronts, provided that such sign is located within the area leased to occupant and oriented towards such public street.

(3) Notwithstanding the provisions of subsections (1) and (2), if a detached sign is maintained on premises which fronts upon two (2) or more public streets and any part of such sign is located within fifty (50) feet of the

closest edge of the intersecting right-of-way of two (2) or more public streets, only one (1) detached sign shall be allowed for such premises.

(4) In addition to any detached sign permitted above, on any premises where goods and/or services are offered from a "drive-thru" window or which may otherwise be purchased by a person without the necessity of exiting his or her motor vehicle, one (1) additional detached sign not in excess of eight (8) feet in height or in excess of thirty-two (32) square feet in sign area shall be permitted.

(5) The number of attached signs for a premises, or for each occupant of a premises, shall not be limited, but the total sign area of attached signs shall not exceed twenty (20%) percent of the area of the facade to which the signs are attached. The number of words in an attached sign (excluding a message center) shall not be limited, but not more than eight (8) words attached to a facade may contain any letters in excess of six (6) inches in height. If any premises is entitled to use a detached sign pursuant hereto but does not do so, then the total sign area of attached signs an each facade may be increased but shall in no event exceed thirty (30%) percent of the area of the facade to which the signs are attached.

(6) For the purpose of this section, "word" shall mean any word, number, abbreviation, trademark, symbol or name. The purpose of this section may not be circumvented by combining words which are ordinarily separated to make one word such as "gasforless", and in such case, each separate letter shall be counted as a word. (as added by Ord. #03-875, June 2003, and amended by Ord. #04-894, Aug. 2004)

9-833. <u>Maximum size limitations for detached signs</u>. (1) The permitted size of a detached sign shall be determined in accordance with the distance which such sign is set back from the right-of-way as specified in § 9-834 but the sign area of a detached sign (whether a freestanding sign or projecting sign) shall not exceed one hundred seventy-five (175) square feet in size per sign face, except as provided for in § 9-833(2), below. The sign area of a detached sign shall be calculated in accordance with the provisions of the defined term "sign area" in § 9-802 of this chapter, except that the dimensions of any reader board shall be calculated individually and not as if the reader board were included within the rectangular sign area of any other sign. If, instead of being supported by a simple pole or beam system, a freestanding sign is supported by or attached to any other type of freestanding opaque structure which serves as a background for the sign and obscures vision through such structure, then the structure shall itself be included in determining the size of the sign.

(2) For premises which have frontage along any single public road or public right-of-way in excess of three hundred fifty (350) linear feet along such road or right-of-way and which have more than two (2) occupants, all of the provisions of § 9-833(1) shall apply, except that the sign area of a freestanding

sign located along such frontage shall not exceed three hundred (300) square feet. In addition, if any premise which has more than two (2) occupants has less than three hundred fifty (350) linear feet of frontage along a public road or public right-of-way but has a developed store or building frontage of greater than five hundred (500) linear feet, then the sign area of a detached sign shall not exceed three hundred (300) square feet. (as added by Ord. #03-875, June 2003)

9-834. Set-back requirements for detached signs. No detached sign may be closer than ten (10) feet to any street or right-of-way; no detached sign with a sign area larger than forty (40) square feet may be closer than fifteen (15) feet to any street or right-of-way; and no detached sign which is larger than one hundred (100) square feet may be closer than twenty (20) feet to any street or right-of-way. Notwithstanding the foregoing set-back limitations, any projecting sign which is attached to a building whose building line adjoins a public sidewalk or public right-of-way may extend out over the public sidewalk or right-of-way, but no over any public street and not in excess of the distance otherwise permitted hereunder. Notwithstanding the foregoing, any owner from whose property any sign may project over any public right-of-way shall, prior to erecting or installing such sign, obtain a temporary use permit from the city subject to such conditions as may be required by the board of commissioners. (as added by Ord. #03-875, June 2003)

9-835. Minimum and maximum height limitations on detached signs. All projecting signs shall have a minimum clearance between the ground and the lowest portion of such sign of not less than ten (10) feet. A freestanding sign or its supporting structure whose closest point is located no closer than ten (10) feet from any right-of-way may not exceed twenty (20) feet in height above the adjacent public right-of-way at its closest point. For each additional foot of set-back beyond (10) feet from the right-of-way, a freestanding sign may extend an additional one (1) foot in height above the level of the adjacent public right-of-way at its closest point, up to a maximum of thirty (30) feet in height. Notwithstanding the foregoing provisions of this section, in the event a freestanding sign is placed on ground which is higher than the closest point on the adjacent public right-of-way, the maximum height of such sign shall be measured from the lowest point of the ground over which such sign is located, if, and only if, every part of such sign and its supporting structure is located within fifty (50) feet of the closest adjacent public right-of-way. (as added by Ord. #03-875, June 2003)

9-836. Traffic directional signs. The number, height and set-back limitations in §§ 9-832, 9-833, 9-834 and 9-835 above shall not apply to on-premise entrance, exit or other directional traffic signs at any premises, provided that no such directional sign shall exceed thirty (30) inches in height

nor more than six (6.0) square feet in sign area, and further provided that no such signs shall contain any words other than customary motor vehicle or pedestrian traffic directional instructions, and shall not otherwise, in the judgment of the city manager or his/her designee, obstruct traffic sight lines or otherwise impair traffic movement. (as added by Ord. #03-875, June 2003)

9-837. Directional signs on hospital premises. The restrictions of §§ 9-832, 9-833, 9-834, 9-835 and 9-836 shall not apply to on-premise directional signs located on the premises of any hospital, medical center or clinic which offers emergency medical care, provided such signs shall not otherwise obstruct traffic sight lines or otherwise impair traffic movement and shall not exceed fifty (50) feet in height above the nearest roadway. (as added by Ord. #03-875, June 2003)

9-838. Maintenance of on-premises signs. All on-premise signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective or deteriorated parts shall be replaced. The building inspector shall order the removal of any on-premise sign which is defective, damaged or substantially deteriorated pursuant to this chapter. (as added by Ord. #03-875, June 2003)

9-839. Flags. In addition to the display of flags of the United States, any state of the United States, the County of Hamilton and/or the City of Red Bank, each premises may display one (1) additional flag as an on-premise sign provided that such additional flag shall not exceed ninety-six (96) square feet in surface area and provided further that in no case shall such additional flag exceed the size of the flag of the United States displayed on the same premises. Such additional flag may be displayed only on a flagpole and only when the flag of the United States, a state, the County of Hamilton or the City of Red Bank is being displayed on a flagpole. At no time may such additional flag be secured by any means on more than one (1) side of the flag. The foregoing limitation on the display of flags shall not apply to stadia or athletic fields in which sporting events are routinely held. (as added by Ord. #03-875, June 2003)

9-840. Compliance and corrective provisions. (1) Notwithstanding any other provisions of this chapter, the following regulations shall govern the alteration and maintenance of any existing on premises or existing legal non-conforming off premises signs. Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of any prior ordinance or ordinances of the City of Red Bank, Tennessee, and such signs so erected in violation of any prior ordinance or ordinances shall be subject to removal as provided in this section. Signs which are now in existence and were constructed in compliance with the terms of any prior ordinance or ordinances of the City of Red Bank,

Tennessee, but which are not in conformance with the provisions of this chapter are hereby designated as legal, non-conforming signs, and shall be abated and removed hereafter in accordance with this section.

(2) For on-premises signs, any occupant who applies for a new sign permit for any on-premises detached sign shall be required to either remove or cause the removal of all legal nonconforming detached signs and the devices designated in or on the area of the property occupied by such occupant, or to bring all nonconforming signs on that property into conformance with the provisions of this chapter, before any new permit may be issued. Any occupant who applies for a new sign permit for any on premises attached sign shall be required to either remove all legal nonconforming attached signs in or on the area of the premises occupied by such occupant, or to bring such nonconforming signs into conformance with the provisions of this chapter, before any new sign permit may be issued. For the purpose of this subsection, the term "property" is intended to mean the entire tract of real property which has been assigned a separate tax map and parcel number and is not intended to be limited to a separate unit of a multi-unit property.

(3) A nonconforming sign shall be made conforming if one of the following situations occur:

(a) Any modification of sign appearance, other than normal maintenance necessary to retain the original structure of the sign; or

(b) Removal of the sign, except when removal is done for maintenance and the sign is re-erected within fourteen (14) days; or

(c) Destruction or deterioration of the sign to an extent that the current cost of repair exceeds fifty percent (50%) of the current cost of constructing a new sign which duplicates the old; or,

(d) Any sign prohibited by the adoption of this chapter shall be removed within ninety (90) days from written notification if erected, constructed or placed subsequent to the adoption of this chapter. (as added by Ord. #03-875, June 2003)

9-841. Various building and safety codes applicable. Notwithstanding any other provision of this chapter the various building and safety cods of the City of Red Bank, as now enacted or hereafter adopted or amended, including but not limited to the electrical code, shall be applicable to all signs and sign structures. (as added by Ord. #03-875, June 2003)

9-842. Political signs regulated. (1) Scope of article - definition of political sign. Notwithstanding anything in this chapter to the contrary, the provisions of this chapter shall govern the use and placement of political signs. "Political sign" shall mean any sign which supports or opposes the candidacy of any candidate for public office or urges action on any other issue on the ballot of a primary, general or special election.

(2) Political signs regulated. Political signs with a sign area of more than 32 square feet shall be subject to the provisions of this code and/or this chapter governing off-premises signs, provided, that any political sign at campaign headquarters shall be governed as on-premises signs. Political signs with a sign area of 32 square feet or less shall be subject to the following restrictions:

(a) No such political sign may be placed closer than 7 feet to the pavement or curb of any public or private street, except that poster type signs, no large than 14" (fourteen inches) by 22" (twenty-two inches) may be placed not closer than 3 feet from the pavement or curb of any public or private street.

(b) No such political sign may be placed closer than 25 feet to the closet edge of the pavement or curb of two (2) intersecting public or private streets.

(c) No such political sign may be placed upon or attached in any way to any tree, fence, fence post, utility pole, light pole or rock located on public property or upon the right-of-way on any street.

(d) All such political signs shall be removed within fifteen days after the election to which they refer has been held. Such signs erected for a primary election may remain only if they continue to be valid for the next general election.

(e) The offices of the building inspector of the city manager may order the removal or relocation of any such sign which, in its or their opinion, may constitute a hazard to the public traveling on public streets.

(f) No such sign shall be located in a position which is principally designed to be viewed from a controlled access facility.

(g) No such sign may be placed upon a public sidewalk.

(h) Any person or organization planning to erect such political signs shall first file with the office of the building inspector the name, address and telephone number of the person or persons who shall be responsible for the proper erection and timely removal of such signs.

(i) Penalty - Any person, firm, corporation or entity violating the provisions hereof may be fined in the amount of up to $5.00 for each violation. In the case of continuing violations, each day shall constitute a separate violation(s). (as added by Ord. #03-875, June 2003)

8-843. Set back variances and procedures. (1) The city commission shall have the authority to grant a limited variance and to lessen the applicable set back requirements by up to five (5) feet from the right-of-way set back requirements for on premises detached signs as otherwise set forth in § 9-834.

(2) No variance shall be issued except upon:

(a) Written application by the owner to the city commission on forms furnished by the city;

(b) Written notice of the application and the date and time of public hearing being issued to all adjoining land owners within two hundred (200') feet of the premises for which the application is pending.

(c) A public hearing shall be advertised and held when the application will be considered and a finding by a majority of the commissioners that

(i) Multiple legal non-conforming signs exist upon adjacent properties within 200 feet of the requested location which would effectively block the view of the proposed on premises detached sign if a variance were not granted;

(ii) The location of the proposed detached on premises sign will not impede visibility and/or traffic flow on the adjacent public street and will not impair vehicular traffic or pedestrian traffic, from a safety and traffic visibility standpoint, for ingress to or egress from the property upon which the proposed sign is to be located.

(d) In no case shall the applicable set back distance be lessened by more than five (5') feet;

(e) In no case shall the applicable set back distance be lessened so as to permit a sign to be located any closer than five (5') feet to any sidewalk;

(f) The placement of the proposed sign will not block or impair the view of any existing legal non-conforming sign from the adjacent public road;

(g) In no case shall the variance be granted if it would violate any other signage separation distance requirements or the other provisions of the "sign ordinance".

(3) Any premises owner desiring to obtain a variance shall obtain and file an application to the city manager's office with detailed plans, drawing and scaled distances showing the size and proposed location of the sign, and shall pay an application fee of $100.00 to defer the cost of notice to adjoining land owners and for the review of the application and requirements. (as added by Ord. #04-893, Aug. 2004)

CHAPTER 9

SECONDHAND DEALERS

SECTION

9-901. To keep record of merchandise.
9-902. Police inspection of record authorized.
9-903. To identify sellers of merchandise; purchases from minors.
9-904. Stolen property to be returned without charge.
9-905. Violations.

9-901. To keep record of merchandise. Any person, corporation, or partnership, operating a business dealing in secondhand or used merchandise, within the City of Red Bank, shall keep a book in which shall be legibly written in ink, or typed, in the English language, an accurate account and description of the merchandise herein described, and the name of such person selling or trading such merchandise, and no entry made in such book shall be erased, obliterated, or defaced.

Merchandise covered by this chapter is defined to be tools, furs, jewelry, antiques, coins or monies, musical instruments, collectible knives, firearms (including antiques), television sets, stereo components, electrical appliances, and all other such items which can be identified by serial number. (1975 Code, § 5-901)

9-902. Police inspection of record authorized. The book required in § 9-901 shall, at reasonable times, be open to the inspection of any police officer of the City of Red Bank. (1975 Code, § 5-902)

9-903. To identify sellers of merchandise; purchases from minors. If such dealer does not know the person offering to sell merchandise, he shall make inquiry to learn the name of such person and shall require the production of appropriate identification and shall note in said book the address of such person. Any purchase from a minor shall be with the approval of the parent or guardian of such minor. (1975 Code, § 5-903)

9-904. Stolen property to be returned without charge. If any person is found to be the owner of stolen property which has been sold to any such dealer, such property shall be returned to the owner thereof without the payment of the amount advanced or paid by the dealer or any costs or charges of any kind which such dealer may have placed upon the same. (1975 Code, § 5-904)

9-905. Violations. It shall be unlawful for any person, corporation, or partnership, or any agent or employee of same, to violate any of the provisions

of this chapter. Upon two convictions, the license of said person, corporation, or partnership may be revoked. (1975 Code, § 5-905)

CHAPTER 10

MASSAGE PARLORS AND TECHNICIANS

SECTION

9-1001. Definitions.
9-1002. Massage parlor permit--required.
9-1003. Same--application; renewals; fees.
9-1004. Same--investigation of applicant; grounds for denial of application.
9-1005. Same--investigation of premises and issuance.
9-1006. Display.
9-1007. Same--revocation; grounds; notice to permittee.
9-1008. Massage parlor technician permit--required.
9-1009. Same--application; renewal; fees.
9-1010. Same--investigation of applicant; grounds for denial of application.
9-1011. Same--display.
9-1012. Same--revocation; grounds; notice to permittee.
9-1013. Suspension of permits; reinstatement.
9-1014. Appeals from permit denials, suspension or revocations.
9-1015. Public health card required for a massage technician.
9-1016. Examination of massage technicians; issuance of public health card.
9-1017. Right of entry.
9-1018. Minimum standards for parlors.
9-1019. Individual health requirements for technicians.
9-1020. Unlawful acts.
9-1021. Alcoholic beverages.
9-1022. Penalty.
9-1023--9-1049. Reserved.

9-1001. Definitions. For the purposes of this chapter the following phrases and words shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning.

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

(2) "Massage parlors." Any premises, place of business, or membership club where there is conducted the business or activity of furnishing, providing or giving for a fee, or any other form of consideration, a massage, bath, body painting, or similar massage service or procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a

duly licensed physician, surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barbershop or beauty salon operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck.

(3) "Massage technician." Any person who administers a massage to another at a massage parlor. (1975 Code, § 5-1001, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1002. Massage parlor permit--required. It shall be unlawful for any person to establish, maintain or operate a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance. (1975 Code, § 5-1002, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1003. Same--application; renewals; fees. (1) Any person desiring a massage parlor permit to establish, maintain or operate a massage parlor in the city shall make application to the city manager. Each massage parlor permit application shall be accompanied by an investigation fee of one hundred dollars ($100.00), payable to the city manager. Each massage parlor permit shall expire one year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of fifty dollars ($50.00). Each such application shall contain the name, address and telephone number of the place where the applicant proposes to operate, maintain or establish a massage parlor in the city.

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

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

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

(5) A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall be not less than two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filled with the application. (1975 Code, § 5-1003, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1004. Same--investigation of applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in § 9-1003 of this code, the city manager shall request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant (if the applicant is a partnership or association, all partners or members thereof, or if the applicant is a corporation, all officers, directors and managers thereof, and all shareholders). The result of this investigation shall be submitted by the city manager within thirty (30) days of the request.

(2) The city manager shall deny any application for a massage parlor permit under this chapter after notice and hearing if the city manager finds that the applicant (if the applicant is a partnership, association or limited liability entity, any partner or member thereof, or if the applicant is a corporation, any officer, director or manager thereof, or shareholder) has within a period of two (2) years prior to application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city manager for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (1975 Code, § 5-1004, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1005. Same--investigation of premises and issuance. The city manager, before issuing any massage parlor permit, shall cause in investigation to be made of the premises named and described in the application for a massage parlor permit under this chapter for the purpose of determining whether the massage parlor complies with the provisions of this chapter, the zoning ordinances, all building, fire, plumbing and electrical codes, and, for this purpose, a copy of the application shall immediately be referred to the building officials to make or cause to be made a thorough investigation of the premises and the result of this investigation and whether such premises comply with the zoning, building, fire, plumbing and electrical codes, shall be submitted to the city manager within thirty (30) days of the request. (1975 Code, § 5-1005, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1006. Display. Every person to whom a massage parlor permit shall have been granted shall display such massage parlor permit in a conspicuous place in the massage parlor or establishment so that it may be readily seen by persons entering the premises. (1975 Code, § 5-1006, as repealed by Ord.

#00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1007. Same--revocation; grounds; notice to permittee. (1) Power generally. The city manager shall have the power to revoke or suspend for any period of time up to two (2) years, and shall be charged with the duty of revoking or suspending, any massage parlor permit after notice to permittee and hearing upon any grounds set forth in this section.

(2) Grounds. The following shall be deemed good and sufficient grounds for revocation or suspension of massage parlor permit:

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

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

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

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

(3) Notice of hearing. Note of hearing before the city manager for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (1975 Code, § 5-1007, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1008. Massage parlor technician permit--required. It shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance. (1975 Code, § 5-1008, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1009. Same--application; renewal; fees. (1) Any person desiring a permit to perform the services of a massage technician at a massage parlor in the city shall make application in triplicate form to the city manager, who shall immediately refer one copy of same to the chief of police. Each such application shall state under oath the name, address, telephone number, last previous address, date of birth, place of birth, height, weight, and current and last previous employment of the applicant. In addition, such application has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in any other jurisdiction.

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

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

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

(5) Each massage technician permit shall expire one year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of fifty dollars ($50.00). (1975 Code, § 5-1009, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1010. Same--investigation of applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in § 9-1009 of this code, the city manager shall request the chief of police to make or cause to be made a thorough investigation of the criminal record of the applicant. The result of this investigation shall be submitted to the city manager within thirty (30) days of the request.

(2) The city manager shall deny any application for a massage technician permit under this chapter after notice and hearing, if the city manager finds that the applicant has within a period of two (2) years prior to his application been convicted, pleaded nolo contendere, or suffered a forfeiture on

a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city manager for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (1975 Code, § 5-1010, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1011. Same--display. Every person to whom a massage technician permit shall have been granted shall, while in a massage parlor, carry on his or her person or display in a conspicuous place in the massage parlor or establishment, such massage technician permit. (1975 Code, § 5-1011, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1012. Same--revocation; grounds; notice to permittee. Any massage technician permit granted under this chapter shall be revoked by the city manager after notice and hearing if the permittee has within a period of two (2) years been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. Discovery of a false statement on the application shall also be grounds for revocation of the permit. Notice of the hearing before the city manager or revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (1975 Code, § 5-1012, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1013. Suspension of permits; reinstatement. If the chief of police or the city manager or their duly authorized representatives, find that a massage parlor or a massage technician is not in compliance with the requirements set forth in this chapter, or the permittee has refused the chief of police, the city manager, or their duly authorized representatives the right to enter the premises to enforce the provisions of this chapter, upon report to the city manager he may enter any order for the immediate suspension of the massage parlor permit or massage technician permit, as the case may be, until such time as he finds that the reason for such suspension no longer exists. A copy of the order shall be sent to the massage parlor and/or the massage technician at his or her place of business by certified mail, which order shall set

forth the reasons for such suspension. No person shall operate a massage parlor or perform the services of a massage technician at a massage parlor when subject to an order of suspension. The city manager shall reinstate a suspended permit when he has been satisfied that the massage parlor or massage technician complies with the applicable provisions of this chapter. (1975 Code, § 5-1013, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1014. Appeals from permit denials, suspensions or revocations. Any applicant or permittee aggrieved by the actions of the city manager in the denial of an application for a massage parlor permit or massage technician permit, or by the decision of the city manager with reference to the revocation or suspension of a massage establishment permit or massage technician permit, shall have the right to appeal to the city commission. Such appeal shall be taken by filing with the city manager, within ten (10) days after the action complained of has been taken, a written statement setting forth fully the grounds for appeal. The city manager shall forthwith notify the city commission, which shall schedule a public hearing and shall give notice of such hearing to the appellant. The city commission may reverse or affirm or may modify any decision of the city manager, and may make such decisions or impose such conditions as the facts may warrant; and it may order that a permit be granted, suspended or revoked. The decision and order of the city commission on such appeal shall be final and conclusive. (1975 Code, § 5-1014, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1015. Public health card required for a massage technician. It shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid public health card issued pursuant to this chapter or any prior ordinance. (1975 Code, § 5-1015, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1016. Examination of massage techniques; issuance of public health card. (1) All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest x-ray which is to be made and interpreted by a trained radiologist, and shall furnish a certificate based upon and issued within thirty (30) days of such examination by the Chattanooga-Hamilton County health department and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the city manager the

certificate required herein within five (5) days of the commencement of their employment and at least once every six (6) months thereafter.

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

(3) The employer of any such person shall require all such persons to undergo the examination and obtain the certificate provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for the chief of police, or the city manager, or their duly authorized representative at all reasonable times. (1975 Code, § 5-1016, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1017. Right of entry. The chief of police or the city manager or their duly authorized representatives are hereby authorized to enter, examine and survey any premises in the city for which a massage parlor permit has been issued pursuant to this article to enforce the provisions of this chapter, and for no other purpose. Should the authority to inspect premises be delegated to another person, such person shall be proved with written delegation of authority to be shown to the permittee upon request at the time of inspection. If such inspection reveals conditions which in the opinion of the inspector warrants a more thorough inspection by the building official, the Chattanooga-Hamilton County health department, the bureau of fire prevention, or similar person or agency charged with responsibility for the enforcement of particular health and safety ordinances or laws of the city or the state, he shall report such condition to such person or agency and request that such premises be examined and any findings be reported to the chief of police and the city manager. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law enforcement of health and safety or criminal laws wherein such right of entry is vested by other ordinances or laws. (1975 Code, § 5-1017, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1018. Minimum standards for parlors. No massage parlor shall be operated, established or maintained in the city that does not comply with the following minimum standards:

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

(2) Closed cabinets shall be provided and used for the storage of clean linin, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly

covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

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

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

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

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

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

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

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

(10) Animals, except for seeing eye dogs, shall not be permitted in the massage work areas.

(11) No massage parlor shall employ a massage technician who does not comply with the provisions of this chapter. (1975 Code, § 5-1018, as repealed by Ord. #00-802, Feb. 2000; renumbered by Ord. #00-803, Feb. 2000; and replaced by Ord. #97-759, Dec. 1997)

9-1019. Individual health requirements for technicians. No massage technician shall administer massage at a massage parlor who does not comply with the following individual health requirements:

(1) No massage technician shall administer a massage if such massage technicians knows or should known that he or she is not free of any contagious or communicable disease.

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

(3) Each massage technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each person. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)

9-1020. Unlawful acts. (1) It shall be unlawful for any person in a massage parlor to place his or her hand or hands upon or to touch with any part of his or her body, or to fondle in any manner, or to massage, a sexual or genital part of any other person.

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

(3) It shall be unlawful for any person while in the presence of any other person of the opposite sex in a massage parlor to fail to conceal with a fully opaque covering the sexual or genital parts of his or her body.

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

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

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

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

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

(9) It shall be unlawful for any person in a massage parlor to administer a massage to a person of the opposite sex. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)

9-1021. Alcoholic beverages. No beer or alcoholic beverages may be sold, served or consumed upon any premises holding a license as of provided for in this chapter. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)

9-1022. Penalty. Any person violating any of the provisions of this chapter, upon conviction by the court, shall be imprisoned for not less than fifteen (15) days nor more than thirty (30) days, and shall be fined not less than twenty-five dollars ($25.00) nor more than fifty dollars ($50.00), for each violation, and each day of violation of any provision of this chapter shall constitute a separate offense. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)

9-1023--9-1049. <u>Reserved</u>. (as renumbered by Ord. #00-803, Feb. 2000, and added by Ord. #97-759, Dec. 1997)

CHAPTER 11

PROFESSIONAL TREE TRIMMERS AND LANDSCAPING

SECTION

9-1101. Permit required.
9-1102. Application for license.
9-1103. Disposal of trees, brush, etc.
9-1104. Violations--penalty.

9-1101. Permit required. All persons engaging or intending to engage in the business of trimming or removing trees, brush, hedges, or similar vegetation, and all persons engaged in, or intending to engage in the business of landscaping within the City of Red Bank, shall first obtain a permit from the city recorder, authorizing such activity. (1975 Code, § 5-1101)

9-1102. Application for license. The city recorder is hereby authorized and empowered to issue appropriate permits to persons engaged in any of the activities governed by this chapter. Such permits shall be issued upon the written application in a form approved by the recorder, and verified by the person applying for such permit. Such application shall contain the name, business and residence address, and business and residence phone number of the applicant, and a description of the activities which the applicant intends to carry out, and may contain such additional information as the recorder shall require. (1975 Code, § 5-1102)

9-1103. Disposal of trees, brush, etc. All persons engaging in any of the activities governed by the provisions of this chapter, shall remove all trees, limbs, brush and all other waste or residue resulting from their activities, from the premises where such activities are carried out, and shall dispose of them in a proper and sanitary manner. (1975 Code, § 5-1103)

9-1104. Violations--penalty. Each and every violation of this chapter shall be punishable by a fine of not less than $10.00, nor more than $50.00. (1975 Code, § 5-1104)

CHAPTER 12

CABLE TELEVISION

SECTION

9-1201. To be furnished under franchise.
9-1202. Obstruction of streets, sidewalks, and rights-of-way, permits required.
9-1203. Placement and screening.

9-1201. To be furnished under franchise. Cable television service shall be furnished to the City of Red Bank and its inhabitants under franchise as the board of commissioners shall grant. The rights, powers, duties and obligations of the City of Red Bank and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.[1]

9-1202. Obstruction of streets, sidewalks, and rights-of-way, permits required. Every cable and video service provider operating in the City of Red Bank, and any contractor or subcontractor providing services for a cable or video service provider, shall comply with all provisions of the Municipal Code of the City of Red Bank. No streets or sidewalks may be obstructed or impaired by such cable or video service providers or their contractors. Prior to any construction or installation activities by cable or video service providers or their contractors, plans must be submitted to the Red Bank Municipal Planning Commission and permits must be obtained. The city preserves its right to inspect and regulate such activities. In addition to such requirements, the following provisions specifically apply to construction and/or installation activities by cable or video service providers or their contractors. (as added by Ord. #09-946, Feb. 2009)

9-1203. Placement and screening. Cable and video service providers and their contractors and subcontractors shall be subject to and shall comply with supplementary provisions relating to the placement, screening and location of equipment, facilities and/or accessories, whether on public or private property. No facilities, equipment or accessories to be used for video services shall be installed without obtaining a permit from the city authorizing the location and plans for such installation. This provision shall not apply to installation of otherwise lawful and authorized poles or wires.

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[1]For complete details relating to the cable television franchise agreement see Ords. #165, #186, #201, #229, #253, #332, #463, #580, #623, and #09-946 in the office of the city recorder.

(1) These provisions shall be and are hereby also adopted and incorporated into the Red Bank Subdivision Regulations and, by separate ordinance, as an amendment to the Red Bank Zoning Ordinance in both locations of the municipal code, in the specific sections deemed appropriate by the incorporator, or designated as new sections:

(a) Installation of cable and video service provider facilities and accessory uses. Every cable company and video service provider using the public rights-of-way and/or adjacent easements or private property to provide services shall comply with the regulations of this section regarding the placement of accessory facilities on public or private property. For purposes of this section "accessory facilities" (or, "facilities") shall mean such facilities including pedestals, boxes (exterior), vaults, cabinets, or other ground-mounted or below-ground facilities, including associated conduits, cables and/or lines, that directly serve the local area or property in which the facility is placed. Accessory facilities shall be permitted subject to the following regulations.

(b) Approval; design; location; application. The design, location, and nature of all accessory facilities on public or private property shall require the approval of the Red Bank Municipal Planning Commission ("planning commission"), which approval shall be considered in a nondiscriminatory manner, in conformance with this chapter and subject to reasonable permit conditions. Prior to any construction, excavation or other work on any accessory facility, the facility owner shall apply to the planning commission and submit detailed plans for the commission's review and approval. Any material changes or extensions to such facilities or the construction of any additional structures shall be subject to the requirements and approvals as set forth herein.

In considering individual or multiple location applications, the planning commission shall review the request and ensure the proposed facilities do not impair public safety, harm property values or significant sight-lines, or degrade the aesthetics of the adjoining properties or neighborhood, considering all reasonable alternatives. Unless otherwise prohibited, facilities subject to this section may be located in minimum setback areas provided that all other requirements are met. To the extent permitted by law, the time, method, manner and/or location of facilities to be installed in the public rights of way may be established or set by the City of Red Bank on a case-by-case basis, as needed to protect the rights of way or to ensure public safety. An inspection fee shall be required as established by the City of Red Bank to reimburse the city for the costs of review and inspection of such facilities.

(c) General regulations. The following general regulations apply to all accessory facilities:

(i) No facilities may be located so as to interfere, or be likely to interfere, with any public facilities or use of public property.

(ii) All such facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise.

(iii) Any damage to landscaping or vegetation on private or public property during installation or maintenance of facilities shall be promptly remedied by the facility owner. The facility owner shall replace all plantings damaged by the work with like plantings and shall replace all damaged grass areas with sod of the same type of grass as was damaged.

(iv) At least forty-eight (48) hours prior to any installation, replacement or expansion of any facility located on private property, the facility owner shall provide notice to the city, the property owner and all adjacent property owners. Notice shall include detailed description of the work to be done, the exact location of work and the time and duration when it will be undertaken.

(v) Facilities placed in any designated historic areas may be subject to additional requirements regarding the placement and appearance of facilities as may be necessary to reasonably avoid or reduce any negative impact of such placement.

(d) Residential zones. In residential zones (R-I thru R-4, PUD, RT-1, and RZ-1) and rights-of-way adjacent to such areas, accessory facilities less than three feet (3') in height and covering less than six (6) square feet in area may be installed above ground with the prior approval of the city. Except as otherwise may be authorized herein, any larger facility shall be installed underground or authorized to be installed above ground only by special use permit issued by the board of zoning appeals (Red Bank Zoning Ordinance, § 11-206, et seq.). All above ground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating facilities in the rear yard is not practical, then such facilities may be installed in the side yard. Such facilities shall not be located in the front yard or within the public right-of-way unless specifically approved by the city upon a determination that all other alternative locations are not feasible.[1] (as added by Ord. #09-946, Feb. 2009)

[1]Appendix E consisting of Exhibits A and B is located under the "Appendix" section of this municipal code.

CHAPTER 13

ADULT-ORIENTED ESTABLISHMENTS

SECTION

9-1301. Definitions.
9-1302. License required.
9-1303. Application for license.
9-1304. Standards for issuance of license.
9-1305. Permit required.
9-1306. Application for permit.
9-1307. Standards for issuance of permit.
9-1308. Fees.
9-1309. Display of license or permit.
9-1310. Renewal of license or permit.
9-1311. Revocation of license or permit.
9-1312. Hours of operation.
9-1313. Responsibilities of the operator.
9-1314. Prohibitions and unlawful sexual acts.
9-1315. Penalties and prosecution.
9-1316. Invalidity of part.
9-1317, et seq. Reserved.

9-1301. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

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

(2) "Adult bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, compact discs, computer software, computer generated images or text, or

magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

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

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

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

(6) "City commission" means the City Commission of the City of Red Bank, Tennessee.

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

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

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas,

removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

(11) "Specified sexual activities" means:

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

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

(iii) Female breasts below a point immediately above the top of the areola; and

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered. (as added by Ord. #97-753, Dec. 1997)

9-1302. <u>License required</u>. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter,[1] no adult-oriented establishment shall be operated or maintained in the City of Red Bank without first obtaining a license to operate issued by the City of Red Bank.

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

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

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

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

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[1]These provisions were taken from Ord. #97-753 which passed third and final reading December 2, 1997.

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with. (as added by Ord. #97-753, Dec. 1997)

9-1303. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Red Bank Police Department and to the applicant.

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

(a) Name and addresses, including all aliases.

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

(c) All residential addresses of the applicant(s) for the past three (3) years.

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

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

(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

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

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

(i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(l) The length of time each applicant has been a resident of the City of Red Bank, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

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

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

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Red Bank Police Department, the city manager shall notify the applicant that his application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the city manager shall advise the applicant in writing whether the application is granted or denied. All licenses shall be further held pending consideration of the required special use zoning permit by the city commission.

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

judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city manager. (as added by Ord. #97-753, Dec. 1997)

9-1304. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-1303(2) shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-1303(2) shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the Red Bank Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city manager no later than twenty (20) days after the date of the application. (as added by Ord. #97-753, Dec. 1997)

9-1305. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city manager. (as added by Ord. #97-753, Dec. 1997)

9-1306. Application for permit. (1) Any person desiring to secure a permit shall make application to the city manager. The application shall be filed in triplicate with and dated by the city manager. A copy of the application shall be distributed promptly by the city manager to the Red Bank Police Department and to the applicant.

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

(a) Name and address, including all aliases.

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

(c) All residential addresses of the applicant for the past three (3) years.

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

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

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

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

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

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

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

(3) Within ten (10) days of receiving the results of the investigation conducted by the Red Bank Police Department, the city manager shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the city manager shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city manager shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the city commission at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the board. (as added by Ord. #97-753, Dec. 1997)

9-1307. <u>Standards for issuance of permit</u>. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the Red Bank Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city manager not later than twenty (20) days after the date of the application. (as added by Ord. #97-753, Dec. 1997)

9-1308. Fees. (1) A license fee of five hundred dollars ($500.00) shall be submitted with the application for a license. If the application is denied, one-half (½) of the fee shall be returned.

(2) A permit fee of one hundred dollars ($100.00) shall be submitted with the application for a permit. If the application is denied, one-half (½) of the fee shall be returned. (as added by Ord. #97-753, Dec. 1997)

9-1309. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, any member of the Red Bank Police Department, or any person designated by the city commission. (as added by Ord. #97-753, Dec. 1997)

9-1310. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city manager. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be filed in triplicate with and dated by the city manager. A copy of the application for renewal shall be distributed promptly by the city manager to the Red Bank Police Department and to the operator. The application for renewal shall be a form provided by the city manager and shall contain such information and data, given under oath or affirmation, as may be required by the city commission.

(2) A license renewal fee of five hundred dollars ($500.00) shall be submitted with the application for renewal. In addition to the renewal fee, a late penalty of one hundred dollars ($100.00) shall be assessed against the applicant who files for a renewal less than sixty (60) days before the license expires. If the application is denied, one-half (½) of the total fees collected shall be returned.

(3) If the Red Bank Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the city manager.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the city manager. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and date by the city manager. A copy of the

application for renewal shall be distributed promptly by the city manager to the Red Bank Police Department and to the employee. The application for renewal shall be upon a form provided by the city manager and shall contain such information and data, given under oath or affirmation, as may be required by the city manager.

(5) A permit renewal fee of one hundred dollars ($100.00) shall be submitted with the application for renewal. In addition to said renewal fee, a late penalty of fifty dollars ($50.00) shall be assessed against the applicant who files for renewal less that sixty (60) days before the license expires. If the application is denied one-half (½) of the fee shall be returned.

(6) If the Red Bank Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city manager. (as added by Ord. #97-753, Dec. 1997)

9-1311. Revocation of license or permit. (1) The city manager shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

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

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

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

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

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

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

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein

adult-oriented entertainment is permitted or to any portion of the licensed premises wherein adult-oriented material is displayed or sold.

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

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

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

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

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

(4) Any operator or employee whose license or permit is revoked shall not be eligible to receive a license or permit for five (5) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for two (2) years from the date of revocation of the license. (as added by Ord. #97-753, Dec. 1997)

9-1312. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. on weekdays and between the hours of 1:00 A.M. and 12:00 noon on Sundays.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Red Bank Police Department, the Hamilton County Sheriff's Department, or such other persons as the city commission may designate. (as added by Ord. #97-753, Dec. 1997)

9-1313. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birthdate, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city commission. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Red Bank Police Department at all reasonable times.

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

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

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

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

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

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

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

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by Red Bank City Code.

Entertainers are:

1. Not permitted to engage in any type of sexual conduct;
2. Not permitted to expose their sex organs;

3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion. (as added by Ord. #97-753, Dec. 1997)

9-1314. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

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

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen (18") inches above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (as added by Ord. #97-753, Dec. 1997)

9-1315. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity who is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars ($50.00) and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #97-753, Dec. 1997)

9-1316. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (as added by Ord. #97-753, Dec. 1997)

9-1317, et seq. Reserved.

CHAPTER 14

OUTDOOR STORAGE AND DISPLAY OF MERCHANDISE; SIDEWALK SALES, GARAGE SALES AND YARD SALES

SECTION

9-1401. Definitions.
9-1402. Sales unlawful except in accordance with chapter.
9-1403. Exemptions.
9-1404. Restrictions.
9-1405. Violation declared nuisance; enforcement; penalties.

9-1401. Definitions. The following terms, wherever used or referred to in this chapter, shall have the following meanings unless a different meaning appears in the content.

(4) "Person" shall be defined as any individual, partnership, merchant, association, corporation, limited liability company, or entity of any kind or nature.

(5) "Sale" or "sales" shall mean the sale or any offer to sell and/or the exterior display or storage for the purpose of conducting or promoting the sale to the public, at wholesale or retail, or in any manner, of any goods, wares, and/or merchandise of any and all kinds or description on hand or in stock or on the premises.

(6) "Sidewalk sale" shall mean a special sales event or promotion conducted by a merchant in a commercial zone whereby merchandise may lawfully be displayed, as limited herein, upon the public sidewalks in a manner so as not to obstruct passage of pedestrians upon the public sidewalks of the city.

(7) "Yard sale" or "garage sale" shall mean a sale of miscellaneous merchandise, conducted in a manner as otherwise permitted by this chapter, on private residential premises by an individual or individual persons. (as added by Ord. #01-847, Oct. 2001)

9-1402. Sales unlawful except in accordance with chapter. It shall be unlawful for any "person" to conduct any sidewalk sale, yard sale, garage sale, tent sale or to allow any exterior sale or storage of goods, merchandise, products or inventory held, promoted or displayed except in accordance with the permissive provisions of this chapter. (as added by Ord. #01-847, Oct. 2001)

9-1403. Exemptions. The provisions of this chapter, related solely to the outdoor storage and/or display of merchandise, shall not apply to or affect the following persons, entities, business, circumstances, or activities:

(1) Persons acting pursuant to an order or process of a court of competent jurisdiction;

(2) Persons acting in accordance with their powers or duties as public officers, such as sheriffs, marshals or police officials;

(3) Duly licensed auctioneers, selling at public auction;

(4) Sellers of operating and operational trucks, automobiles, motorcycles, recreational vehicles, trailers, tractors, farm equipment, riding lawn mowers and the like, so long as such item and/or merchandise is not stored or displayed in such a way as to obstruct the views of motorists on or entering on or exiting from any public streets or right-of-way, nor stored or displayed any closer than five (5) feet from the public right-of-way and provided that no inoperable, partially dismantled and/or junked automobile, tractor, boat, farming equipment, etc. shall be stored, displayed or offered for sale in violation of any other provision of this chapter or of any other provision of the Red Bank City Code;

(5) Sellers of new building materials;

(6) Sellers of live shrubbery, flowers and landscaping plants. (as added by Ord. #01-847, Oct. 2001)

9-1404. Restrictions. There shall be no outdoor storage or display of goods, products, inventory or merchandise for sale in the City of Red Bank except as expressly permitted by this chapter.

(1) No person shall conduct any sidewalk sale, garage sale, yard sale or tent sale in the City of Red Bank except in accordance with the permissive provisions of this chapter.

(2) No persons shall conduct more than two (2) yard sales, garage sales or sidewalk sales, at any one business address, or as is applicable, at any residence address, or any one location during any calendar month. Each sale shall last no more than three (3) consecutive days. No permit shall be required unless the codes enforcement officer or person(s) designated by the city manager shall have reason to believe that a violation is occurring. Such permit shall be in written form, applied for in person and without cost or charge.

(3) There shall be no more than two (2) tent and/or other temporary structure sales at any one business address, or at any one location, during any calendar year, with each sale to be no more than forty-five (45) days duration, although two such sales may run consecutively. No such sale shall be conducted unless the person intending to conduct such sale shall by mail and/or by telephone and/or in person give prior notice to and register the date, time, duration and location with the codes enforcement officer. There shall be no tent or temporary structure sales on residential property.

(4) All goods, wares, or merchandise related to any "sidewalk sale" shall be removed from the public sidewalk(s) not later than 10:00 P.M. of each and every day of a permitted and registered sidewalk sale. However, the codes enforcement officer shall be authorized to issue a special permit for no more than one (1) special event sidewalk sale in any consecutive period of sixty (60)

consecutive calendar days whereby such hours of display may be extended to up to twenty-four (24) hours per day.

(5) Except for temporary display of merchandise during a permitted and registered sidewalk sale, and during lawful business hours when actually open for business, and excepting no more than six (6) items of merchandise for display and/or advertising purpose(s) which shall not obstruct or block the sidewalk and which shall leave at least eight feet (8') of unobstructed space on the sidewalk, there shall be no temporary or other storage of merchandise, goods, products, or inventory on the public sidewalks or on the public rights-of-way at any time or under any circumstance.

(6) During lawful business hours and when actually open for business, any person, business or entity which is otherwise lawfully operating in a commercial zone, as otherwise provided in the Red Bank Zoning Ordinance(s) may display and offer for sale otherwise lawful merchandise outside the building(s) located upon the premises so long as the same shall be displayed and/or offered for sale on the private property of such person or business operating thereon and not on the public right-of-way, and no person shall display or store such merchandise outside the building premises at any time when such business is not actually open for business to the public unless the same shall be enclosed in and by a sight obscuring fence together with evergreen landscaping, which fence and evergreen landscaping shall be at least eight feet (8') high and which fence and evergreen landscaping shall be located at least five feet (5') from the public right-of-way or, unless the same shall be stored and fully enclosed within a fence (whether or not sight obscuring) together with evergreen landscaping, which fence and evergreen landscaping shall be at least four feet (4') in height and which fence and landscaping shall be set back, at all points, at least twenty feet (20') from the public right-of-way and which fence and landscape display or storage area shall be entirely separate from the code compliant parking facility on said premises. (as added by Ord. #01-847, Oct. 2001, and amended by Ord. #14-1004, June 2014)

9-1405. <u>Violation declared nuisance; enforcement; penalties</u>. To conduct any sale herein defined without registering the same and/or in any manner not permitted by this chapter, or to violate any other provisions of this chapter with respect to the outdoor sale or storage of goods, wares, merchandise or inventory is hereby declared to be a misdemeanor and a public nuisance, and, for the purpose of the enforcement of this chapter, the city manager is hereby authorized to cause the city attorney to file a bill in a court of proper jurisdiction to enjoin such person(s) from continuing to conduct any such sale(s). Additionally, any person violating the provisions of this chapter shall be subject to a civil penalty up to and including $50.00 for each violation, with each day of violation constituting a separate offense. (as added by Ord. #01-847, Oct. 2001)

CHAPTER 15

MOBILE FOOD VEHICLES AND PUSHCARTS

SECTION

9-1501. Mobile food vehicles regulated; purpose.
9-1502. Definitions.
9-1503. Permit and license required for yearly operation.
9-1504. Application for permit.
9-1505. Business license purchase.
9-1506. Application, license and permit fees.
9-1507. General rules and regulations.
9-1508. Temporary curb spacing permit.
9-1509. Food service workers.
9-1510. Prohibition against the transfer of a permit and/or license.
9-1511. Denial, revocation, suspension or permit and/or business license.
9-1512. Actions of city manager final.
9-1513. Requesting additional vendor locations.
9-1514. Mobile food service vehicle zone.
9-1515. Enforcement; violations.
9-1516.--9-1517. Deleted.

9-1501. Mobile food vehicles regulated; purpose. The general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Red Bank by requiring that new and existing mobile food vehicles and food pushcart vendors provide residents and customers with a level of cleanliness, quality and safety.

It is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile food vehicles and pushcart in relationship to established restaurant businesses and encourage the safe and convenient use of the city's public right-of-way. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1502. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Applicant" means any person or business who applies for a license or a license renewal under the provisions of this business license code.

(2) "RBPD" means the Red Bank Police Department.

(3) "Business licenses" is the licenses required of any business to operate within the city by the license codes of the city.

(4) "Department" means the department designated by the (city commission or mayor).

(5) "Food service worker" means a person who works for or under the direction of, on behalf of, or as an agent of a food vehicle permittee and/or owner.

(6) "Food zone" is an area designated by the city manager that has been approved for the specific operation of mobile food vehicles and/or pushcarts within the public right-of-way.

(7) "License" is an approval that enables the holder to vend food items at authorized locations and times, for a specified period of time.

(8) "Licensee" means the holder of a mobile food vendor business license issued by the finance department.

(9) "Mobile food vehicle" means, except for pushcarts, a unit mounted on or pulled by a self-propelled vehicle where food for individual portion service is prepared, or dispensed; is self-contained with its own drinking water tank and waste water tank including prepackaged foods; is designed to be readily movable; and is moved daily to return to its commissary.

(10) "Mobile food zones" means the locations and areas of the City of Red Bank within which the operation of mobile food vehicles and push carts may be allowed subject to the provisions of this section/ordinance. See § 9-1514.

(11) "Operator" is the entity that is legally responsible for the operation of the mobile food vehicle such as the owner, the owner's agent, or other person; and possesses a valid permit to operate a mobile food vehicle.

(12) "Operating hours" is the designated time frame mobile food vehicles are authorized to operate within the city right-of-way.

(13) "Owner" is an individual or business entity who owns and/or operates the food vehicle used in business for the purpose of earning income.

(14) "Pedestrian" is a person who is walking or otherwise traveling in the public right-of -way.

(15) "DPW" means the Department of Public Works.

(16) "Permit" means a written authorization, or permission to engage in or participate in some regulated or otherwise controlled activity. Under the provisions of this code section, a "permit" is not equivalent to a "license", and vice-versa.

(17) "Permittee" is the entity, person, company or corporation which has been granted a permit by the City of Red Bank to operate one (1) or more mobile food vehicles upon the streets of the city.

(18) "Pushcart" means a non-self-propelled mobile food unit that is lightweight enough, designed, and intended to be moved by one (1) person. A pushcart can be used to prepare and serve only:

(a) Non-potentially hazardous foods such as popcorn, lemonade, hot dogs or flavored ice; or

(b) Foods pre-wrapped at the commissary and maintained at the required temperatures.

(19) "Restaurant" a brick and mortar establishment where meals are generally served and eaten on premises; prepares and serves food and drink to

customers in return for money, either paid before the meal, after the meal, or with a running tab.

(20) "Person" means any natural individual, firm, partnership, association, or corporation. Whenever the word "person" is used in any section in this article prescribing a penalty or fine as applied to a partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of such section.

(21) "Vending" is the business of selling or causing to be sold any of the following items: food product, produce, prepared foods and beverages, prepackaged foods and non-alcoholic beverages from a vehicle. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1503. Permit and license required for yearly operation. (1) All mobile food vehicles and pushcarts must submit an application for a permit yearly to the public works department. The application will then be forwarded to the city manager for review.

The application must receive approval of the city manager or his/her designee prior to the issuance of a permit.

(2) Although a permit allows for the operation of the mobile food vehicle within the city limits, the permittee's activity must occur only in an area that is zoned commercial and only at such assigned location(s) as are specifically allowed as provided in the permit; and

(3) No location within the city shall be approved that is within two hundred fifty feet (250') of any presently, or at the time of application, existing restaurant during hours of operation of the restaurant.

(4) Applicant shall notify the public works department within fifteen (15) days of any changes to application information.

(5) The city manager shall not approve a location where in the city manager's sole reasonable discretion a mobile food vehicle and/or pushcart would potentially obstruct a public right-of-way, impair the movement of pedestrians or vehicles, in the opinion of the city manager, or pose a hazard to public safety, or pose any impediment to safe movement of vehicular traffic. In the event the city manager shall approve a location which later results in any obstruction of traffic or impairment of the movement of pedestrians, the city manager may, in his or her discretion summarily and without right of review, revoke the permit as to any such location and assign another approved location to the permit holder.

(6) The city manager shall not approve any location which is adjacent to a handicap loading zone.

(7) The grant of a permit hereunder shall not be deemed to authorize any mobile food vehicles and/or pushcart licensee/permitee to conduct business or utilize the assigned/permitted space unless the permittee also obtains a

business license from the city. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1504. Application for permit. (1) A single permit application shall be accepted and deemed complete on a first-come, first-served basis. Each application shall indicate on its face, in addition to other requirements as may be determined, that the following materials must be submitted:

(a) Each owner of a mobile food vehicle and/or pushcart shall be required to provide a valid copy of all necessary licenses, permits or other written proof of compliance with the regulations of the Hamilton County Health Department for each mobile food vehicle and/or pushcart.

(b) The applicant's full name, signature, address and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners, together with their addresses.

(i) The applicant must list the names of all food service workers that will operate the mobile food vehicle(s).

(ii) A photograph of the permittee and/or food service worker applicant, e.g. driver's license, passport or similar.

(iii) Each owner must attest that they have not knowingly employed, hired for employment, or continued to employ an unauthorized alien. Owner must attest that he/she has e-verified each of the named employee's eligibility for employment.

(2) The applicant must specify their desire to, and commit only to, operate in designated and permitted commercial zones within the public right-of-way of the city or upon private property.

(3) A photograph or accurate description of the mobile food vehicle and or pushcart, including the following data: The make, model and type of body; the number of cylinders; the vehicle identification number or any other identifying number as may be required by the city manager. (If this information is not known at the time of permit application, this requirement can be satisfied as a condition of obtaining a final effective permit.)

(4) A statement as to whether the application is for a new permit, renewal of an existing permit, a change in hours of operation, or the addition of a food zone location(s).

(5) A statement that the applicant or any of its food service workers has not been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business.

(6) A statement that the applicant or any of its food service workers has not been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten (10) years.

(7) A statement as to whether or not the applicant or any of its principals suffers from a legal disability or capacity under state or federal laws.

(8) A signed statement that the applicant shall hold harmless the city and its officers and employees, and shall indemnify the city, its officers and

employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the city from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than three hundred thousand dollars ($300,000.00) per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the City of Red Bank. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the office of the city manager.

(9) A statement that the permittee shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be the direct result of any activity of the permit holder.

(10) A statement that no sales or consumption or dispensing of alcoholic beverages, wine, or beer shall be permitted under any circumstance or at any time unless the food truck owner has received a separate permit/license therefore from the City of Red Bank.

(11) Such other additional information required by law, rule, ordinance, or that any department of the city, city manager, city commission, or information reasonably deemed appropriate to assist the city in determining whether the permit should be granted. The applicant shall be provided reasonable time to supplement the application.

(12) A statement that the applicant/permittee has not had a similar food truck or pushcart license of permit revoked or suspended in any jurisdiction within the preceding five (5) years. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1505. Business license purchase. Every person required to purchase a business license under this ordinance shall:

Purchase a city business license (which is non-transferrable to any third party) for each mobile food vehicle and/or pushcart on which it does business within the city, except as otherwise provided by the city. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1506. Application, license and permit fees. (1) Upon the filing of a completed application, the non-refundable application fee for all applicants seeking a mobile food vehicle or pushcart permit shall be twenty-five dollars ($25.00). This application fee shall be submitted with the application and shall apply to the cost of the permit only if approved.

(2) Upon approval of an application for an operator's permit, the annual business license fee shall be twenty-five dollars ($25.00) for the owner/operator of the mobile food vehicle or pushcart.

(3) Any applicant that wishes to operate multiple units within the city shall pay an additional yearly license fee of twenty-five dollars ($25.00) per additional unit.

(4) The annual fees set forth in this section shall be prorated starting with the date the permit is issued to December 31 of the first year of operation as needed.

(5) Any duplicate permit may be issued upon payment of a fee of ten dollars ($10.00) should a permit be lost or destroyed.

(6) Any renewal permit must be applied for not later than ten (10) working days following the expiration date of an existing operator's permit, and for any such permit applied for after such expiration date there shall be a late fee of fifty dollars ($50.00) in addition to the annual fees stated above.

(7) Each such applicant shall pay to the director of finance, for the use of the city, a license fee for the privilege of engaging in such business in the amount specified in the then current license code and shall each year thereafter pay to the director of finance such amount as is specified for such business in the then current license code so long as his license is in effect. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1507. General rules and regulations. (1) No person or business entity, including religious or charitable organization, shall operate a mobile food vehicle and/or pushcart upon the public right-of-way or upon any private property within the city without a permit issued by the City of Red Bank.

(2) Hours of operation within the public right-of-way and/or upon private properties shall be limited to the hours between 6:00 A.M. to 11:00 P.M., Monday through Sunday within the city. It shall be unlawful to leave any approved mobile food vehicle unattended on a public right-of-way, nor remain on a public right-of-way outside of these allowed hours of operation. The city may require additional restrictions to abate nuisances.

(3) All mobile food vehicle and/or pushcart vendors operating within the public right-of-way of the city shall adhere to the designated time and day requirements and shall be allotted sixty (60) minutes set-up and sixty (60) minutes breakdown time before and after stated operating hours.

(4) No mobile food vehicle or pushcart operation vending shall occur within two hundred fifty feet (250') of any restaurant during hours of operation. No mobile food vehicle or pushcart shall be permitted to operate within one (1) block of another mobile food vehicle or pushcart without a special exceptions permit from the city manager.

The city manager may, however, allow multiple food trucks/pushcarts if it is determined that additional food vehicles or pushcarts can be accommodated without negatively impacting existing businesses on the block face. For

example, where there are few or no occupied buildings on the block face. Special exceptions may be granted or denied for festivals, fairs, or special events for time periods not to exceed seventy-two (72) hours by determination of the city manager based on all circumstances then and there existing.

Increasing the size of a food vehicle/pushcart zone does not prevent the city from exercising the inherent authority to regulate uses of the public right-of-way and/or vending from mobile food vehicles located on private property and reduce the size of the food vehicle/pushcart zone at a later date. No licensed permit holder shall have, obtain, or accrue any vested right of or with respect to any particular location(s) under ant circumstance(s).

(5) Mobile food vehicle and/or pushcart vendor shall not operate within five hundred feet (500') of any fair, stadium, carnival, circus, festival, special event, civic event, or other like event that is licensed or sanctioned by the city, unless they are authorized participants in such event, except that the provisions shall not be interpreted to disallow continued operation for any person then holding a previously issued and valid permit for operation within any such area.

(6) It shall be unlawful for any vendor to operate a mobile food vehicle and/or pushcart in or within two hundred and fifty feet (250') of any public or private school located within the city or any public park(s) without first obtaining specific written authorization from the city manager.

(7) The permit may contain additional limitations on hours and days that the city determines are appropriate, including limitations to prevent conflict with special events.

(8) No mobile food vehicle and/or pushcart shall use or maintain any sound amplifying equipment, lights, pulsating or flashing lights, or noisemakers, such as bells, horns, or whistles or similar devices to attract customers.

A mobile food vehicle and/or pushcart may use battery operated lights with appropriate protective shields for the purpose of illuminating merchandise.

(9) With the exception of trash bin receptacles, no mobile food vehicle shall use external signage, seating, or place other equipment not contained within the vehicle on the public sidewalks or right-of-way or upon any adjacent private property.

(10) Other than as permitted within the city, no mobile food vehicle and/or pushcart shall have any exclusive and/or perpetual or length-of-time oriented right(s) to any location(s) upon the streets, alleys, or public grounds of the city.

(11) No mobile food vehicle and/or pushcart operating within the city designated locations shall be of a size as to interfere in any way with the city or public's use of any public ways, streets or sidewalks.

(12) No mobile food vehicle and/or pushcart shall vend in any congested area where the operation will impede pedestrian or vehicle traffic; including customer queues, accessory units, or signage.

(13) No mobile food vehicle and/or pushcart shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic. Drive through sales of merchandise are not permitted under any circumstances or at any time.

(14) Permittee shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of a public right-of-way or remove the mobile food vehicle or pushcart entirely from the public right-of-way or adjacent property if necessary to avoid such congestion or obstruction.

(15) The mobile food vehicle and/or pushcart must prominently display the name and address of the owner and the permit number.

(16) Any power required for the mobile food vehicle and/or pushcart located on a public way shall be self-contained and shall not draw its power from the public right of way. No power cable or equipment shall be extended at grade or overhead on, across any public street, alley or sidewalk.

(17) Permittee and/or licensee shall contain all refuse, trash, and litter within the mobile food vehicle or a small moveable trash can maintained by the permittee and/or licensee, and located adjacent to the mobile food vehicle and/or pushcart in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The owner/operator of the mobile food vehicle and/or pushcart shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container, or in any private container without proper permission.

(18) A mobile food vehicle (including pushcarts) must allow for a pedestrian visual corridor at least 6 feet wide with a four foot (4') wide pedestrian walkway.

(a) Mobile food vehicles (including pushcarts) must always be located on a paved or concrete surface. The location must be on the street side of the sidewalk and the pushcart must maintain an eighteen inch (18") setback from the curb.

(b) Pedestrian walkways of no less than four feet (4') must be maintained around the mobile food vehicle and/or pushcart.

(19) The proposed mobile food vehicle and/or pushcart vending activity shall not violate the Americans with Disabilities Act.

(20) If an existing mobile food zone conflicts with the requirements set forth in this ordinance, the city manager shall make a determination if it will be feasible to issue a new permit for a different location and provide a reasonable amount of time for the vendor to move to the new location.

(21) Mobile food vending shall only occur from the side of a food vehicle that is parked abutting and parallel to the curb.

(22) No mobile food vehicle shall provide or offer drive-through service of any kind.

(23) The decibels on any generator(s) or other equipment or amenities of any mobile food vehicle used may not exceed "60dBA". The operator must

provide the manufacturer's specs on decibels generated by any particular generator or other equipment. The department of public works will make the final determination if power generators or other equipment used by mobile food vehicle constitute a noise violation.

(24) The use of the permitted operating location for mobile food vehicle and/or pushcart vending must be compatible with the public interest in use of the public right-of-way. In making such determination, the city manager shall consider the width of the public way, parking issues and traffic congestion, the weight that can be supported by the paving or street surface at the proposed location, the proximity and location of existing street furniture, including, but not limited to, utility poles, parking meters, benches, street trees, news racks, as well as the presence of truck loading zones or other businesses or approved mobile food vehicles to determine whether the requested location would result in pedestrian or street congestion.

(25) Any new business that opens or moves near an existing mobile food vehicle or pushcart zone shall be deemed to have accepted the proximity of the existing mobile food vehicle and/or pushcart in operation for the duration of the mobile food vehicle location permit. The city shall maintain the inherent authority to regulate uses of the public right-of-way and reduce the size and/or location of the food vehicle/pushcart zone at a later date. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1508. <u>Temporary curb spacing permit</u>. (1) A temporary curb space vending permit authorizes vending from a curb space within the public right-of-way that is not designated as a mobile food vehicle zone. The permit is effective for no more than one (1) day during a calendar year. The temporary curb space vending permit may be issued under the following requirements:

(a) The permittee shall reserve the curb space with the city manager.

(b) The temporary curb space vending permit shall only be issued for an event located on private property abutting the curb space or an event located in an adjoining public place.

(c) The vending shall only occur from the side of a food vehicle that is parked abutting and parallel to the curb.

(2) The permittee shall obtain and maintain in effect all required permits and business licenses and display the food vehicle zone or temporary curb space vending permit at the vending site in a manner approved by the city manager.

(3) Temporary curb space permit vending sites shall not be located in driveways or within one (1) block of a food establishment entrance or exit during its hours of operation.

(4) The city manager, as deemed appropriate, approve or deny the issuance of a temporary curb space vending permit based on the:

(a) Hours of operation and dates of use;

(b) To ensure access to the use complies with the Americans with Disabilities Act;

(c) Impacts associated with the vending activity from: lighting, noise, emissions to the air, the placement of signage, or equipment such as generators;

(d) Impacts to the abutting business displays, business signage, or intake vents from the proposed vending activity; and

(e) Pedestrian circulation, traffic management, or any other public use purpose.

(5) If the proposed temporary curb space or food vehicle zone vending will occur within two hundred feet (200') of a park, the city manager will decide whether the vending site should be approved or denied based on the following considerations:

(a) Public safety or access within the park;

(b) Conflicts with existing businesses and concessionaires, permitted events, or other special activities occurring in the park; or

(c) The need to encourage park activities. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1509. Food service workers. The owner of a mobile food vehicle and/or pushcart shall:

(1) Allow only food service workers and persons authorized by the Hamilton County Health Department to be present or operate in the mobile food vehicle and or pushcart; and

(2) Ensure that all food service workers in the mobile food vehicle or operating the pushcart have current workers permits. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1510. Prohibition against the transfer of a permit and/or license. (1) No permit or license is transferable without approval of the city manager.

(2) No person holding a permit and/or license for a mobile food vehicle shall sell, lend, lease or in any manner assign transfer a mobile food vehicle permit and/or license. Any attempted assignment or transfer of any kind without prior notice to and consent by the City of Red Bank shall be absolutely null and void and shall automatically result in immediate administrative revocation of the existing license.

(3) A permit and/or license holder may transfer a permit and/or license as part of the sale of a majority of the stock in a corporation holding such permit and/or license, as part of the sale of a majority of the membership interests of a limited liability company holding such permit and/or license, or as part of the sale of a business or substantially all of its assets; provided that there shall be no allocated or actual value for the transfer of the permit and/or license.

(a) Prior to any such transfer, the transferor shall notify the city manager in writing and the transferee shall submit a mobile food vehicle permit application for approval to the city manager.

(b) Any such transfer shall be subject to the terms and conditions of the original permit.

(4) Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Whoever violates this provision, including both the transferor and transferee, shall be subject to a fine of three hundred dollars ($300.00). The unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1511. Denial, revocation, suspension or permit and/or business license. An application or approved permit and/or business license may be denied, revoked, suspended, or not renewed for any of the following reasons:

(1) The permittee and/or licensee or any of its principals fails to satisfy any qualification or requirement imposed by this chapter, or other local, state or federal laws or regulations that pertain to the particular license; or

(2) The permittee and/or licensee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required; or

(3) The permittee and/or licensee or any of its principals has been subject, in any jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business; or

(4) The permittee and/or licensee or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business; or

5) The permittee and/or licensee or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten (10) years; or

(6) The motor food vehicle on which the business is proposed to be conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed; or

(7) The licensee or any of its principals is in default on any payments owed to the city; or

(8) The application contains material omissions or false, fraudulent, or deceptive statements; or

(9) The motor food vehicle is operated in such a manner as constituting a public nuisance per the Red Bank City Code or state statutes; or

(10) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this chapter pertaining to food, fire prevention, public health or safety.

(11) The licensee or his agents or employees interfere with an inspection of the food establishment by a Hamilton County Health Department employee; or

(12) There are repeated or serious violations of the applicable portions of this article; or

(13) There are repeated or serious violations of federal or state food laws or laws regulating food establishments as defined in this article; or

(14) The Hamilton County Health Department denies, revokes or suspends the license of the mobile food vehicle; or

(15) There is a violation of any section of this chapter.

The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this chapter or state and federal laws and regulations. The Hamilton County Health Department may impose additional requirements related to the operation of a mobile food vehicle or food push cart. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1512. Actions of city manager final. The actions of the city manager in denying, revoking or suspending any permit or license and/or in imposing a civil penalty as provided herein shall be final. Upon any denial, revocation or suspension of a mobile food vehicle permit and/or business license by the city manager, the applicant or permittee and/or licensee may appeal the actions of the city manager only to the Chancery Court of Hamilton County, Tennessee via statutory writ of certiorari as provided in the Tennessee Code Annotated.

(1) Prior to revocation, written notice shall be given to the permittee and/or licensee or person in charge. The notice shall set forth:

(a) The grounds upon which the city will seek denial, revocation or suspension of the permit and/or license;

(b) The specific violations of this article or of federal or state law upon which the city will rely in seeking denial, revocation or suspension of the permit and/or license;

(c) That a hearing will be held before the Red Bank city administrative hearing officer;

(d) The date, time and place of the hearing; and

(e) That the permittee and/or licensee may appear in person and/or be represented by counsel and may present testimony.

(2) The hearing shall be held in accordance with this section. If the permit and/or license holder fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed or omitted that constitutes grounds for denial, revocation or suspension of a permit and/or

license. The burden of proof shall be upon the appellant, and the standard of proof shall be abuse of discretion, or arbitrary and capricious decision, inherent credible evidence.

(3) After completion of the hearing, the city administrative hearing officer shall make written findings as to whether or not grounds exist for denial, revocation or suspension of the permit and/or license. If the city administrative hearing officer finds that grounds do exist for denial, revocation or suspension, it shall deny, revoke or suspend the permit and/or license temporarily for up to one hundred eighty (180) days or permanently.

(4) A copy of the written findings shall be sent by certified mail, return receipt requested, to the permittee and/or licensee. If the address of the licensee is unknown, or if the findings are returned undelivered, the findings shall be served on the person in charge of the mobile food vehicle.

(5) If the city administrative hearing officer determines that the appeal is not sustained and upholds the revocation or suspension the permit and/or license, written notice of the revocation shall be served on the permittee and/or licensee or the person in charge with a copy of the findings.

(6) Upon service of a written notice that the permit and/or license have been revoked as provided herein, all food operations shall cease immediately.

(7) Whenever a permit and/or license are revoked, the Hamilton County Health Department shall be notified.

(8) In the event a permit and/or license are revoked, the city shall not be liable to the permittee and/or licensee for any refund of any part of the permit and/or license fee.

Reinstatement of a permittee and/or licensee that has been revoked shall require application and payment of a permit and/or license fee as if it were an initial application.

No new permit and/or license application shall be considered for an establishment or mobile food vehicle where the permit and/or license have been revoked until the expiration of the revocation period. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1513. <u>Requesting additional vendor locations</u>. (1) The use of the permitted operating location for mobile food vehicles or pushcart vending must be compatible with the public interest in use of the public right-of-way.

(2) A permittee may submit a request for use of the public right-of-way in other locations not designated by the city manager. Each submitted request will require a non-refundable location inspection fee of one hundred dollars. ($100.00) If the location is approved, the fee shall apply to the cost of the permit for the new location. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1514. Mobile food service vehicle zone. (1) The following are designated areas of the City of Red Bank where mobile food service vehicles and pushcarts may be lawfully operated pursuant to the provisions of the chapter:

(a) Those areas defined and limited to all commercial zones as defined in the Red Bank Zoning Ordinance, exclusive of those areas otherwise specified and elsewhere excluded or restricted in this chapter.

(b) At his/her sole discretion, the city manager may limit the number of designated food zones within the city, to address the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of Red Bank.

(c) No location within the city shall be approved that is within two hundred fifty feet (250') of any presently, or at the time of application, existing restaurant during hours of operation of the restaurant.

(d) Mobile food vehicle and/or push cart vendor shall not operate within five hundred feet (500') of any fair, stadium, carnival, circus, festival, special event, civic event, or other like event that is licensed or sanctioned by the city, unless they are authorized participants in such event, except that the provisions shall not be interpreted to disallow continued operation for any person then holding a previously issued and valid permit for operation within any such area.

(e) It shall be unlawful for any vendor to operate a mobile food vehicle and/or push cart in or within two hundred and fifty feet (250') of any public or private school located within the city or any public park(s) without first obtaining specific written authorization from the city manager.

(2) Although the permit allows for the operation of the mobile food vehicle within the city limits, the permittee's activity must occur only in an area that is zoned commercial and only at such assigned location(s) as are specifically allowed as provided in the permit.

(3) In all other zones, and areas and locations the operation of mobile food service vehicles and pushcarts shall be unlawful and prohibited. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1515. Enforcement, violations. Any person vending without a duly issued permit, license and personal identification or found in violation of any of the regulatory provisions of this chapter shall be guilty of a violation of this ordinance.

(1) Any person found guilty of a violation of this chapter shall, in addition to the possible revocation or suspension of all applicable operating permit(s) and/or license(s) be subject to the imposition of civil penalties as hereinafter provided.

(a) Enforcement. The provisions of this section or any rules and regulations may be enforced separately or jointly by the Red Bank Police Department and/or the codes enforcement officer.

(b) Civil penalty for violation. Any permit holder operating a mobile food vehicle or service in violation of any provision of this section or any rules and regulations promulgated by the city manager may be subject up to a civil penalty of up to five hundred ($500.00) dollars per day. Each day of violation shall constitute a separate and distinct offense.

(i) The RBPD or the codes enforcement officer may suspend a permit and/or license for no more than three (3) days without a notice or hearing, if there is a probability of serious or repetitive violation of public safety, health or order.

(c) Revocation, suspension, modification. Once a permit and/or license have been issued it may be revoked, suspended, modified, or not renewed by the city manager for failure to comply with the provisions of this section or any rules and regulations promulgated by the city manager.

(i) With the exception of subsection (1)(b)(i) above, no permit and/or license shall be revoked, suspended, modified, or not renewed without a hearing before the city administrative hearings officer, prior to which hearing the city shall give reasonable notice of the time and place of the hearing and the specific grounds of the proposed action. The decision resulting therefrom shall be final and subject only to judicial review via certiorari.

(d) Any permit and/or license holder found in violation of this section or any rules and regulations may be issued a ticket for violation and the mobile food vehicle may be impounded.

(e) Any mobile food vehicle being operated without a valid mobile food vehicle permit and/or license issued by the city manager shall be deemed a public safety hazard and may be ticketed and impounded.

(f) No mobile food vehicle shall be parked on the street overnight, or left unattended and unsecured at any time. Any mobile food vehicle which is found to be unattended shall be considered abandoned and a public safety hazard and may be ticketed and impounded.

(g) A mobile food vehicle operating within the city at an unauthorized location or beyond the hours for which the operation has been permitted shall be deemed operating without a permit and/or license in violation of this section and may be subject to enforcement.

(2) Nothing contained herein is intended or shall be construed to supercede any misdemeanor or other penalties otherwise applicable in the event any permittee or employee or of any vendor or permittee shall violate any laws

of the State of Tennessee, other ordinances of the City of Red Bank and/or rules of the Hamilton County Health Department. (as added by Ord. #15-1043, Oct. 2015, and replaced by Ord. #18-1122, June 2018)

9-1516.--9-1517. Deleted. (as deleted by Ord. #18-1122, June 2018)

CHAPTER 16

SHORT-TERM RENTAL UNITS

SECTION

9-1601. Short-term residential rental units.
9-1602. Additional definitions.
9-1603. Certificate required.
9-1604. Minimum standards for short-term rental units.
9-1605. Certificate application; action on certificate application; certificate approval or appeals to city commission.
9-1606. Permit approval; transferability; conditions; renewal and revocation.
9-1607. Short-term rental unit annual fee.
9-1608. Short-term rental agent.
9-1609. Failure to obtain permit; penalties.
9-1610. Invalidity of part; private agreements and covenants.

9-1601. Short-term residential rental units. Short-term residential rental units is defined as follows:

(1) "Short-term rental unit" or "unit": "Short-term rental unit" or "unit" means a residential dwelling unit that is rented wholly or partially for a fee for a period of less than thirty (30) continuous days and does not include a hotel as defined in Tennessee Code Annotated, § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in Tennessee Code Annotated, § 68-14-502.

(2) Per the provisions of the zoning ordinance, short-term residential rental units are, subject to conditions, certification and licensure hereinafter imposed, permitted only in the zoning districts specified in the zoning ordinance, and are "prohibited uses" in all zoning districts in which not expressly permitted except that certain properties that were used as a short-term rental unit prior to the enactment of this ordinance: i.e. property that began being held out to the public for use as a short-term rental unit within the City of Red Bank and as to which the owner/manager thereof remitted taxes due on renting the unit pursuant to the provisions of Tennessee Code Annotated, § 67-6-501, et seq. for filing periods that cover at least six (6) months within the twelve (12) month period immediately preceding the effective date of this ordinance, i.e. January 17, 2018, such short-term rental units pre-existing (as defined herein) the effective date of this ordinance are referred to as "grandfathered short-term rental units."

(3) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this ordinance may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1602. Additional definitions. (1) "Code compliance verification form." A document, on a form prepared by the office of the city manager, executed by a short-term rental unit owner certifying that the short-form residential rental unit complies with applicable zoning, housing, building, health and life safety code provisions. No person shall allow occupancy or possession of any short-term residential rental unit if the premises are in violation of any applicable laws including, but not limited to, zoning, building, housing, health or life safety code provisions. No person shall be able to possess more than two (2) short-term residential rental certificates for non-owner occupied premises in a multi-family dwelling.

(2) "Short-term residential rental agent." A natural person designated to be responsible for daily operations by the owner of a short-term residential rental or a short-term residential rental certificate application. Such person shall be available for and responsive to contact at all times and someone who is customarily present at a location with Hamilton County, Tennessee, for purposes of transacting the short-term residential rental business. The short-term residential rental agent must meet all other requirements set forth by state law.

(3) "Short-term residential rental occupants." Guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a short-term residential rental dwelling unit for lodging for a period of time not to exceed thirty (30) consecutive days, but not in any event to be from any period of time less than overnight. (as added by Ord. #18-1108, July 2018)

9-1603. Certificate required. No person or entity shall operate a short-term rental unit, including without limitation a grandfathered short-term rental unit, unless a short-term rental permit has been first obtained from the office of the city manager. To obtain a short-term rental permit, an otherwise eligible applicant must submit an application in compliance with the provisions of this chapter of the city code on a form provided by the city. If approved, a legible copy of the short-term rental permit shall be posted within the unit and shall include all of the following information:

(1) The name, address, telephone number and email address of the owner of the short-term rental unit and the short-term rental agent, if applicable;

(2) The business license number;

(3) Any applicable hotel-motel tax certifications and or numbers as are applicable pursuant to Tennessee Code Annotated, § 67-4-1401 et seq.;

(4) The maximum occupancy of the unit;

(5) The maximum number of vehicles that may be parked at the unit; and

(6) The short-term rental permit number.

All short-term rental units must be properly maintained and regularly inspected by the owner to ensure continued compliance with applicable zoning, housing, building, health and life safety code provisions.

The decision of the Office of the City Manager ("OCM") as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for writ of certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated. (as added by Ord. #18-1108, July 2018)

9-1604. Minimum standards for short-term rental units.

(1) Short-term rental unit shall meet the following minimum standards:

(a) A short-term rental unit may include a primary dwelling unit and/or a secondary dwelling unit, but cannot include uninhabitable structures such as garages, barns or sheds.

(b) A short-term rental unit must have functioning smoke detectors as determined by the fire marshal and other life safety equipment as required by generally applicable local, state and federal law.

(c) A short-term rental unit must meet all applicable laws related to zoning, housing, building, health, electrical, gas, plumbing and life safety.

(d) No on-site signage shall be permitted except for those short-term rental units that are located on tracts of at least five (5) acres in area and which unit(s) have a dwelling unit that is not readily visible from the public right of way, which can have directional signs placed on the parcel that shall be at least fifty feet (50') from the public right of way, the provisions of the Red Bank sign ordinance shall otherwise govern the topic of "signs" off-site signage.

(e) There shall be no more than five (5) sleeping rooms made available for rental.

(f) Maximum occupancy: the maximum occupancy shall be determined by the total of

(i) Two (2) persons per bedroom up to one hundred forty (140) square feet.

(ii) For bedrooms over one hundred forty (140) square feet the occupant load will be determined by the area of the room divided by seventy (70) square feet.

(iii) The occupancy maximum shall be conspicuously posted within the short-term residential rental unit.

(g) The short-term rental unit owner shall not receive any compensation or remuneration to permit occupancy and shall not permit occupancy of a short-term rental property for any agreed or contracted period of less than twenty-four (24) hours.

(h) The short-term rental permit holder shall be responsible for collecting and remitting all applicable hotel and motel and sales taxes and any other taxes required by state law and/or by the city code of the City of Red Bank.

(i) Adequate on-site parking shall be provided, as determined by the city after considering proposed/maximum permitted number of guests, frequency of operations, and availability of on-street parking (if any). As a general rule, parking shall not be allowed on any vegetated area of the premises on which the short-term residential rental is located.

(j) All occupants shall abide by all generally applicable codes, ordinances and regulations, including without limitation, applicable noise restrictions and all applicable waste management provisions of the city code of the City of Red Bank.

(k) The name and telephone number of the owner of the short-term rental unit or the short-term rental agent shall be conspicuously posted within the short-term rental unit.

(l) Short-term rental units shall only be located within zoning district(s) which expressly permit such usages according to the Red Bank Zoning Ordinance.

(2) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1605. Certificate application; action on certificate application; certificate approval or appeals to city commission. (1) Certificate applications. Applicants for a short-term rental units permit shall submit an application to the office of the city manager. The application shall be furnished under oath on a form specified by the city. This provision shall apply whether the application is for a short-term rental unit or a "grandfathered short-term rental unit" together with documentary evidence which supports classifying to (proposed) short-term rental unit as a "grandfathered short-term rental unit." Such application shall include:

(a) The name, address, telephone number and email address of the owner of the short-term rental unit and the short-term rental agent, if applicable;

(b) Documentation that applicant is the owner or the short-term rental agent;

(c) The business license number;

(d) Certification and/or registration number relating to the hotel-motel occupancy tax authorized by Tennessee Code Annotated, § 67-4-1401 et seq.;

(e) A site plan, drawn to scale, indicating the subject property, the building(s) on the site intended for short-term rental unit, proposed parking and guest access;

(f) A narrative with the following:

(i) A description of the area available for short-term rental (i.e. the entire property and house, a guest cottage, a portion of the house, etc.);

(ii) A description of the number of bedrooms proposed for rental, which shall not be more than five (5) bedrooms under any circumstance;

(iii) The maximum number of guests to be accommodated at one (1) time;

(iv) The days of operation (all year, just holidays, weekend/weeknights, etc.);

(v) How trash will be handled, and the method of informing occupants about method of disposal of trash; and

(g) A copy of the code verification form,

(h) Proof of insurance on the dwelling unit.

(i) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units."

(2) Application fee. (a) The permit application fee for owner-occupied short-term rental units shall be seventy-five dollars ($75.00).

(b) The permit application fee for all other non-owner-occupied short-term rental units shall be one hundred twenty-five dollars ($125.00).

(3) Application review. (a) Upon application for a short-term residential rental unit permit, the Office of the City Manager ("OCM") shall review the application and provide comment where necessary and, if necessary, request additional information. Letters shall be, within five (5) business days, mailed to any property owner (as shown by the records of the Hamilton County Tax Assessor) ("adjacent property owner") who owns land within three hundred feet (300') of the subject property. Adjacent property owners shall have thirty (30) days from the date of the letter to respond, in writing, with any concerns or objections about the application.

(b) The OCM shall also by mail or email submit a copy of the application for any short-term rental unit permit to individual members of the city commission.

(c) The OCM shall notify the fire marshal and the building inspector to ensure compliance with state and local laws.

(d) A sign furnished by the OCM or designee shall be prominently posted by the applicant on the site of the proposed

short-term rental unit that is the subject of the application of the short-term rental unit. The sign shall be displayed for at least fifteen (15) consecutive days between the date of application and thirty (30) days thereafter.

The sign shall meet the following requirements:

(i) Sign(s) shall be posted at the right-of-way of primary street or road on which the property fronts, in the main entrance area in case of condominium, apartment, PUD or townhouse buildings, and additional areas if required by the OCM.

(ii) Sign may be mounted on flat hard surface to prevent curling or bending of sign.

(iii) Sign may be nailed or tied to a tree or mounted on stakes and shall be visually free from obstruction to said primary road.

(iv) Signs improperly displayed may be ruled as a violation to the short-term residential rental application procedure and may result in deferral of any action by OCM.

(v) The applicant is responsible for replacing any sign which is damaged or lost.

(vi) The applicant is responsible for removing the sign after the final governmental action.

(vii) Failure of the applicant to remove the sign within thirty (30) days of either being granted or denied the short-term rental unit permit shall be subject to a daily administrative penalty not to exceed fifty dollars ($50.00) for each day of violation of these provisions.

(e) If the application meets all of the requirements set forth in this chapter, the OCM shall so advise the city commission and shall issue, to the applicant, a short-term rental unit permit within thirty (30) days of receipt of the application.

(f) If objections or appeals are made to the issuance of the short-term residential rental certificate, the OCM shall note and hold a hearing, upon notice to the applicant and the objecting parties, in a manner that OCM prescribes and shall determine whether to grant or deny the short-term rental unit permit based upon the minimum standards for review as set forth herein, and as relates to any generally applicable health, safety, and/or building codes with respect to the short-term rental unit. Such hearing shall take place not later than forty-five (45) days after the application has been submitted to the OCM. The decision of the OCM as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for writ of certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated.

(4) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1606. Permit approval; transferability; conditions; renewal and revocation. (1) Permit approval. The permit application, if approved, shall be issued for a specific site location and/or address of the proposed short-term rental unit or grandfathered short-term rental unit provided in the application as set forth in this chapter of the city code. The OCM reserves the right to condition permit approval to a certain number of rooms, operating days/hours, signage, or other restrictions, including but not limited to vegetative or other sight screening and directional outdoor lighting requirements, as may be deemed necessary to address impacts to adjacent or nearby properties and/or to ensure safe operation of the property. Said conditions will be based on the recommendation of the OCM.

Upon receipt of a short-term rental unit permit number, the applicant must display said number on any materials or platforms used to advertise the short-term rental unit.

(2) Grant or denial of application. Review of an application shall be conducted in accordance with due process principles and shall be granted unless the applicant fails to meet the conditions and requirements of this chapter, or otherwise fails to demonstrate compliance with generally applicable local ordinances, state or federal law. Any false statements or information provided in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications. The decision of the OCM as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for writ of certiorari to the Chancery Court of Hamilton County, Tennessee as provided in the Tennessee Code Annotated.

(3) Transferability. The certificate is non-transferable to another site, property, location or owner. Grandfathered short-term rental unit permits are subject to additional transferability restrictions as provided in Tennessee Code Annotated, § 13-7-601, et seq., as now enacted or hereafter amended.

(4) Revocation. The city reserves the right to suspend, revoke and/or modify any permit as restrictions and/or conditions imposed as a granted short-term rental unit at any time upon notice to the address of record for the short-term rental unit and after a public hearing. Once the property has three (3) documented city code and/or other violations of any generally applicable state laws or breaches of the peace within any running twelve (12) month period and/or based upon unreasonable interference with the use and enjoyment of adjoining or other nearby properties. Such violations shall be evidenced by a finding of guilt or fault or unreasonable interference with the use and enjoyment of nearby properties, by a court or an administrative officer or other body designated by the city commission.

A short-term rental unit permit which is revoked shall prevent its permit holder and/or any owner of or agent for the specific property from applying for a new permit for short-term rental unit permit for a period of one (1) year from date of revocation.

(5) Suspension of permit. The OCM may suspend a previously issued permit in the event that a permittee is found to be noncompliant with any of the terms, conditions or requirements of this chapter. Any permit which is suspended for administrative noncompliance with permitting requirements may be, upon payment of a fifty dollar ($50.00) reinstatement and inspection fee, be reinstated upon the permittee demonstrating, to the satisfaction of the OCM, that the noncompliance issue(s) which resulted in suspension of the permit have been resolved.

(6) No property shall be operated as a short-term rental unit which its permit is suspended and/or if its permit has been revoked and unless and until a valid short-term rental unit permit shall be subsequently issued by the OCM.

(7) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1607. Short-term rental unit annual fee. (1) There shall be a short-term rental unit permit renewal and inspection fee to be paid annually in the amount of one hundred dollars ($100.00) which, upon inspection by the city and satisfactory demonstration of compliance by the permit holder and property of the terms, provisions and conditions of the chapter shall entitle the permittee to renewal of the permit for the ensuing twelve (12) months.

(2) Failure to pay the annual renewal fee and to cooperate with permit inspection requirements shall result in suspension of the permit which, if not remedied within sixty (60) days after suspension, shall automatically result in revocation of the permit for that particular location. (as added by Ord. #18-1108, July 2018)

9-1608. Short-term rental agent. (1) The owner of a short-term rental unit shall designate a short-term rental agent on its application for a permit for a short-term rental unit. A property owner may serve as the short-term rental agent. Alternatively, the owner may designate a person as his or her agent who is over age eighteen (18) and meets all local and state regulatory requirements to fulfill the duties of a short-term rental agent.

(2) The duties of the short-term rental agent are to: (a) Be reasonably available to handle any problems arising from use of the short-term rental unit;

(b) Appear on the premises of any short-term rental unit within two (2) hours following notification from the city of issues related to the use or occupancy of the premises. This includes, but is not limited to,

notification that occupants of the short-term rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the city code or other applicable law pertaining to noise, disorderly conduct, overcrowding, consumption of alcohol, or use of illegal drugs. Failure of the agent to timely appear to two (2) or more complaints regarding violations may be grounds for penalties and/or permit/certificate revocations as set forth in this chapter. This is not intended to impose a duty to act as a peace officer or otherwise require the agent to place himself or herself in a perilous situation;

(c) Receive and accept service of any notice of violation or notice of hearing related to the short-term rental unit; and

(d) Monitor the short-term rental units for compliance with all laws, including without limitations compliance with the provisions of the hotel-motel tax authorized by Tennessee Code Annotated, § 67-4-1401 et seq.;

(3) An owner may change his or her designation of a short-term rental agent temporarily or permanently; however, there shall only be one (1) such agent for a property at any given time. To change the designated agent, the owner shall notify the OCM in writing of the new agent's identity, together with all information regarding such person as required by the applicable provisions of this chapter.

(4) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1609. Failure to obtain permit; penalties. (1) Any violation of this article, including failure to obtain a permit or to renew a permit of continued or initiating operation of a short-term rental unit either without a permit or after revocation of a permit shall be punishable by a civil penalty of one hundred dollars ($100.00) per violation. Each day that the violation continues shall be a separate offense. There shall be a rebuttable presumption that a person or entity is in violation of this chapter if they list or hold out a property as a short term rental unit without first obtaining a short-term rental permit. This rebuttable presumption also applies to those dwellings featured on websites whose primary purpose is business related to short-term rental unit reservations.

(2) The owner and/or agent of or with respect to a "grandfathered short-term rental unit", which may be otherwise exempt from compliance with some of the regulations, conditions and requirements of this chapter shall nevertheless be required to apply for a permit within the thirty (30) days next following the effective date of this ordinance. If the owner or agent shall fail to apply within said thirty (30) day period or shall otherwise fail to meet the requirements of generally applicable laws, rules and ordinances as to said

grandfathered short-term rental units, shall, upon notice from the OCM cease operations as a short-term rental unit and shall not resume such operations or advertisement as a short-term rental unit until such time as the owner and/or property shall make a proper application for a permit and demonstrate compliance with all requirements of this ordinance and generally applicable law. As provided in Tennessee Code Annotated, § 13-7-604, a "grandfathered short-term rental unit" may lose grandfathered status by failure to adhere to and/or violation of all or any of the qualifying conditions and/or requirements of Tennessee Code Annotated, § 13-7-604, including but not limited to:

(a) The property used as a grandfathered short-term rental unit is sold or otherwise transferred by or from the owner(s) of the property when first qualified or established as a grandfathered short-term rental unit and/or

(b) The property ceases to be used as a short-term rental unit for any period of thirty (30) continuous months and/or

(c) The property has been found to be in violation of a generally applicable local ordinance or state law on three (3) or more separate times and with no appeal opportunities remaining.

(3) As per the provisions of Tennessee Code Annotated, § 13-7-301, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (as added by Ord. #18-1108, July 2018)

9-1610. Invalidity of part; private agreements and covenants. Should any court of competent jurisdiction declare any section, clause or provision so declared unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provisions of this article. Additionally, this chapter shall in no way be used to supersede any privately created agreements or covenants by any homeowner associations or developers restricting certain uses. (as added by Ord. #18-1108, July 2018)

TITLE 10

ANIMAL CONTROL[1]

CHAPTER
1. IN GENERAL.
2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

SECTION
10-101. Keeping and maintenance of some restricted; running at large prohibited.
10-102. Impoundment, notice, fees.
10-103. Care of impounded animals.
10-104. Redemption or other disposition of impounded animals.
10-105. Transfer of unclaimed animals to humane society.
10-106. Wild animals and animals impounded for being public nuisances.
10-107. Destruction of animals for humane reasons.
10-108. Seizure of animals kept in inhumane manner.
10-109. Interference with animal warden.
10-110. Records of the animal warden.
10-111. City is made a bird sanctuary.
10-112. Excreta.

10-101. Keeping and maintenance of some restricted; running at large prohibited. It shall be unlawful for any person owning or controlling any animal including fowl, but excluding dogs and cats, to keep or maintain any such animal on any lot or parcel of ground within the city, on which a house or building is located, unless said lot or parcel of ground shall contain two acres or more.

It shall likewise be unlawful to keep or maintain any such animal upon any open lot or parcel of ground on which there is no structure, unless said lot or parcel of ground shall contain one acre or more. All lots or parcels utilized for the keeping of animals under this section shall be completely enclosed by a fence adequate to restrain said animals, and it shall be unlawful for any person owning or controlling any such animals, or owning or controlling any chickens

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[1]Municipal code reference
Animal control officer's power and right to issue ordinance summonses as citations in lieu of arrest: title 20, chapter 8.

of other fowl, to allow such animals or birds to run at large in the streets or upon any unenclosed lot in the city or upon the premises of any other person in the city.

If any sick or injured animal is found at large within the city, the city should contact the Hamilton County Humane Education Society, or any other such person or company that the city may contract with, to respond to remove the animal. Every owner shall provide animals under his or her control with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and provide humane care and treatment. No person shall beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse an animal, or cause, instigate or permit any dogfight, cockfight or bullfight, or any other combat between animals or between animals and humans. No owner of an animal shall abandon such animal. No person shall expose any known poisonous substance, whether mixed with food or not, so that the same shall be possibly eaten by an animal, provided that it shall not be unlawful for a person to expose on his own property, either by such person's own actions or by utilization of a licensed pest control company or licensee, common rat poison mixed only with vegetable substance. Violations hereof, in the absence of State of Tennessee laws, rules or regulations addressing such violations, shall be punishable by a fine of up to fifty dollars ($50.00) per incident. (1975 Code, § 3-101, as amended by Ord. #14-1005, Nov. 2004)

10-102. Impoundment, notice, fees. Animals found running at large within the city limits shall be impounded and disposed of in accordance with the law if not redeemed within three (3) days.

Immediately upon impounding any animal, the animal warden shall make a reasonable effort to notify the owner thereof and to inform him of the prerequisites for redeeming such animal. Any animal impounded hereunder may be redeemed as herein provided, upon payment by the owner to the city of an impoundment fee of twenty-five dollars ($25.00) for each animal, and an additional maintenance fee of three dollars ($3.00) for each 24-hour period, or part thereof, that the animal is retained by the city.

Upon the second time that the same animal is impounded by the city, the impoundment fee shall be thirty-five dollars ($35.00), and for each third and subsequent impoundment that the same animal is impounded by the city, the impoundment fee shall be fifty dollars ($50.00). (1975 Code, § 3-102)

10-103. Care of impounded animals. It shall be the duty of the city manager to assign or provide by contract for proper care of all animals impounded by the city or the city's contractor(s). (1975 Code, § 3-103, as replaced by Ord. #14-1005, Nov. 2014)

10-104. Redemption or other disposition of impounded animals. Except as provided in §§ 10-106 and 10-107, any animal impounded under the provisions of this chapter may be reclaimed by the owner upon the payment of the impoundment fees set forth herein.

Any animal impounded under the provisions of this chapter and not reclaimed by its owner within three (3) days may be humanely destroyed by the animal warden, sold, or otherwise placed in the custody of some person deemed to be a responsible and suitable owner, who will agree to comply with the provisions of this chapter and such other regulations as shall be prescribed by the City of Red Bank, Tennessee. However, if the animal is one as to which the respective rights of the owner and the person in possession or custody are determined by state law, there shall be compliance with such law. (1975 Code, § 3-104)

10-105. Transfer of unclaimed animals to humane society. The animal warden or any contractor of the city or designee of the city manager may transfer title to any animal held at any animal shelter to the humane society or other suitable facility and/or contractor either before or after the legal detention period has expired and during which the animal has not been claimed by its owner. The cost of food and care for such impounded animals shall be the responsibility of the owner and shall be paid by such owner in addition to impoundment fees at a per diem rate to be established by the city manager. (1975 Code, § 3-105, as replaced by Ord. #14-1005, Nov. 2014)

10-106. Wild animals and animals impounded for being public nuisances. No wild animals, reptiles, fowls, birds of prey, or fish (excepting tropical aquarium fish or fish kept in ornamental pools/ponds less than two hundred (200) gallons in size) may be kept within the city, provided, however, that wild animals may be kept for exhibition purposes by circuses, zoos, and educational institutions in accordance with such regulations as shall be established by the State of Tennessee and by the City of Red Bank provided, further, that all regulations of the State of Tennessee pertaining to the keeping of such animals shall be adhered to at all times. (1975 Code, § 3-106, as replaced by Ord. #14-1005, Nov. 2014)

10-107. Destruction of animals for humane reasons. When, in the judgment of the animal warden, an impounded animal should be destroyed for humane reasons, such animal may not be redeemed. (1975 Code, § 3-107)

10-108. Seizure of animals kept in inhumane manner. The animal warden may enter the premises where any animal is kept in a reportedly cruel or inhumane manner and demand to examine such animal and to take possession of such animal when, in his opinion, it is being inhumanely treated. (1975 Code, § 3-108)

10-109. Interference with animal warden. No person shall interfere with, hinder, or molest the animal warden, any police officer or contractor of the City of Red Bank appointed and/or designated by the City Manager to enforce the terms of this topic/ordinance regarding animal control, in the performance of any duty of such person(s) or agent, or seek to release any impounded animal in custody except as herein provided. (1975 Code, § 3-109, as replaced by Ord. #14-1005, Nov. 2014)

10-110. Records of the animal warden. It shall be the duty of the animal warden to keep, or cause to be kept, accurate and detailed records of the licensing, impoundment, and disposition of all animals coming into his custody.

It shall be the duty of the animal warden to keep, or cause to be kept, accurate and detailed records of all bite cases reported to him, and his investigation of same.

It shall be the duty of the animal warden to keep, or cause to be kept, accurate and detailed records of all monies belonging to the City of Red Bank. His records shall be open to inspection at all reasonable times by such persons responsible for similar records of the City of Red Bank, and shall be audited by the City of Red Bank annually in the same manner as other city records are audited. (1975 Code, § 3-110)

10-111. City is made a bird sanctuary. The entire area embraced within the city is hereby designated as a sanctuary for birds. It shall be unlawful to trap, hunt, or shoot, or attempt to shoot or molest in any manner any wild bird or rob any bird's nest. When any species of wild bird is found to be congregating in such numbers in a particular locality that they constitute a nuisance or menace to health or property, and if such are declared by qualified authorities to be creating a public nuisance and the board of commissioners is so informed, appropriate action may be taken by duly constituted officials after a thorough investigation. Trapping or killing of such birds shall not be resorted to unless Audubon Societies, bird clubs, garden clubs, or humane societies are unable to find a satisfactory alternative. (1975 Code, § 3-111)

10-112. Excreta. The owner or person in control of any animal shall remove, and dispose, in a suitable enclosure such as plastic bag, any excreta deposited by animal on public walks, recreation areas, public street, or private property of others. Such enclosed excreta shall be thereafter placed in an outdoor trash can or other suitable outdoor garbage or trash receptacle for further lawful waste disposal. Each violation hereof shall be punishable by citation and fines of up to fifty dollars ($50.00). Residents shall regularly rid their property of animal and pet waste. (as added by Ord. #14-1005, Nov. 2014)

CHAPTER 2

DOGS AND CATS

SECTION

10-201. Definitions.
10-202. Enforcement.
10-203. Licensing.
10-204. Tag and collar.
10-205. Dogs to be kept under restraint.
10-206. Impoundment.
10-207. Redemption of impounded animals.
10-208. Impoundment fees.
10-209. Certain dogs and cats to be kept confined.
10-210. Civil liability of owners for injury caused by dogs.
10-211. Rabies control.
10-212. Physicians to report bite cases.
10-213. Veterinarians to report rabies suspects.
10-214. Exemptions.
10-215. Enforcement.

10-201. Definitions. As used in this chapter the following terms mean:

(1) "Owner." Any person, group of persons, or corporation owning, keeping, or harboring a dog or dogs.

(2) "Kennel." Any person, group of persons, or corporation engaged in the commercial business of breeding, buying, selling, or boarding dogs.

(3) "At large." Any dog shall be deemed to be at large when he is outside of the fenced property (or fenced portion thereof) of his owner and/or not under the physical and actual restraint and control of a competent person. Any fence referenced herein shall be at least five feet (5') in height and constructed and continuously maintained and secured so as to reasonably be expected to keep such dog(s) retained therein.

(4) "Restraint." A dog is under restraint within the meaning of this chapter if he is controlled by a leash, confined by chain, wire, fence or other physical restraint, or within a vehicle being driven or parked on the streets, or within the fenced property limits of its owner or keeper. An animal "at heel" and not otherwise physically under control is not "restrained."

(5) "Spayed female." Any bitch which has been operated upon to prevent conception.

(6) "Animal shelter." Any premises designated by contract or other action of the city for the purpose of impounding and caring for animals found not under restraint or running at large in violation of this chapter.

(7) "Animal warden." Any person employed by the city as its enforcement officer and/or any person or company contracting with city for

animal control services or any other designee of the city manager assigned by the city manager to enforce the provisions of this (these) animal control ordinance(s).

(8) "Exposed to rabies" A dog has been exposed to rabies within the meaning of this chapter if it has been bitten by, or exposed to, any animal known to have been infected with rabies. (1975 Code, § 3-201, as amended by Ord. #14-1005, Nov. 2014)

10-202. Enforcement. The provisions of this chapter shall be enforced by the animal warden of the City of Red Bank, Tennessee, as otherwise defined in this chapter. The provisions of this chapter 2 with respect to physical restraint shall not apply to dogs, accompanied by an owner or other competent person utilizing the city's fenced and designated "dog park" or other similar premises hereafter so designated and/or assigned by the city for the express purpose of allowing dogs to exercise and run free of actual physical restraint. (1975 Code, § 3-202, as replaced by Ord. #14-1005, Nov. 2014)

10-203. Licensing. (1) No person shall own, keep, or harbor any dog within the city limits unless such dog is licensed as herein provided. A written application for such license shall be made to the city. The application shall state the name and address of the owner and the name, breed, color, age, and sex of the dog and shall be accompanied by a veterinarian's certificate showing that the dog has been vaccinated for rabies in accordance with the requirements of the state law. The license fee shall be paid at the time of making application. A numbered receipt and a numbered metallic tag shall be issued to each applicant.

(2) The yearly license fee shall be five dollars ($5.00) for each dog over the age of three (3) months.

(3) Every person, group of persons, or corporation, engaged in the commercial business of buying, selling, breeding, or boarding dogs and who owns, harbors, or keeps five or more dogs in a kennel, shall pay an annual license fee of fifteen dollars ($15.00), provided, however, that any person operating such kennel may elect to license individual dogs as provided in subsection (2) of this section.

(4) All dog licenses and kennel licenses shall be issued for one (1) year beginning with the 1st day of January. Applications for licenses may be made prior to and for thirty (30) days after the beginning of the licensing year without penalty, but when the application is made after thirty (30) days of the licensing year have elapsed, the applicant shall be assessed a penalty of fifty percent (50%) of the license fee which amount shall be added and collected with the regular license fee. Provided, if the dog or kennel did not become subject to licensing until after the start of the licensing year, then no penalty shall be assessed.

(5) In the event the metallic license tag issued for a dog shall be lost, the owner may obtain a duplicate tag upon the payment of one dollar ($1.00).

(6) If there is a change in ownership of a dog or kennel during the license year, the new owner may have the current license transferred to his name upon the payment of a transfer fee of one dollar ($1.00).

(7) No person shall use for any dog a license receipt or license tag issued for another dog. (1975 Code, § 3-203)

10-204. Tag and collar. Upon compliance with the provisions of the preceding section, each dog owner shall be issued a numbered metallic tag, stamped with a number and the year for which issued. The shape and design of such tag shall be changed from year to year.

Every owner is required to see that the tag is securely fastened to the dog's choke chain, collar, or harness which must be worn by the dog at all times. (1975 Code, § 3-204)

10-205. Dogs to be kept under restraint. The owner shall keep his or her dog under actual physical restraint at all times and shall not permit such dog to be at large outside of the fenced portion of the owner's premises or property, unless under the actual physical restraint and control of a competent person. For purposes of this section, it is insufficient for such dog(s) to be "at heel" or under the verbal command and control of the owner or other person without an additional physical restraint and control such as a leash or other physical restraint. (1975 Code, § 3-205, as replaced by Ord. #14-1005, Nov. 2014)

10-206. Impoundment. Unlicensed dogs, or dogs found running at large shall be taken up by the animal warden, and impounded in the shelter designated as the city animal shelter, and there confined in a humane manner for a period of not less than three (3) days, and may thereafter be disposed of in a humane manner if not claimed by their owners. Dogs and cats not claimed by their owners before the expiration of three (3) days, may be disposed of at the discretion of the animal warden, except as herein otherwise provided in the cases of certain dogs and cats.

When dogs are found running at large, and their ownership is known to the animal warden, such dogs need not be impounded, but the agent may, at his discretion, cite the owners of such dogs to appear in court to answer to charges of violating this chapter.

Immediately upon impounding any dog the animal warden shall make a reasonable effort to notify the owner thereof and to inform such owner of the conditions under which he may regain custody of such animal.

No unspayed female dog which has been impounded by reason of its being a stray shall be allowed to be adopted from the animal shelter unless the prospective owner shall agree to have such female spayed, or the human society shall agree to do so. (1975 Code, § 3-206)

10-207. Redemption of impounded animals. The owner may reclaim any impounded dog, except as herein otherwise provided in the cases of certain dogs, upon compliance with the license provisions in § 10-203 and the payment of the impoundment fees set forth herein.

Any animal impounded under the provisions of this chapter and not reclaimed by its owner within three (3) days, may be humanely destroyed by the animal warden, or placed in the custody of some person deemed to be a responsible and suitable owner who will agree to comply with the provisions of this chapter and such other regulations as shall be prescribed by the City of Red Bank, Tennessee. However, if the animal is one as to which the respective rights of the owner and the person in possession or custody are determined by state law, there shall be compliance with such law. (1975 Code, § 3-207)

10-208. Impoundment fees. Any dog or cat impounded hereunder, may be reclaimed as herein provided upon payment of the owner to the city of an impoundment fee of $10.00 for each dog or cat, and the additional maintenance fee of $3.00 for each 24-hour period, or part thereof, the animal is retained by the city.

Upon the second time that the same animal is impounded by the city, the impoundment fee shall be $25.00 and for each third and subsequent time that the same animal is impounded by the city, the impoundment fee shall be $50.00. (1975 Code, § 3-208)

10-209. Certain dogs and cats to be kept confined. The owner shall confine, within a building or secure enclosure, any fierce, dangerous, or vicious dog, and not take such dog out of the building or secure enclosure unless such dog is securely muzzled.

The owner shall also post, in a conspicuous place at each entrance to such building or enclosure, a clearly legible and visible sign warning all persons preparing to enter said building or enclosure of the dangerous or vicious propensities of the animal confined therein.

Every female dog or cat in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel, in such manner that such female dog or cat cannot come in contact with another animal, except for breeding purposes.

Any animal described in the foregoing provisions of this section found at large shall be impounded by the animal warden and may not be redeemed by its owner, unless such redemption is authorized by a court having jurisdiction. (1975 Code, § 3-209)

10-210. Civil liability of owners for injury caused by dogs. Any person who owns, keeps, or harbors any dog which, while upon the premises of another, or upon public property, causes damage or injury to any person,

domestic animal, or property, shall be liable in damages to such injured person or damaged domestic animal, or property. The lack of knowledge of the vicious or destructive nature or propensities of such dog shall have no bearing upon the question of liability of the person owning, keeping, or harboring such dog. (1975 Code, § 3-209.1)

10-211. Rabies control. Every animal which bites a person shall be promptly reported to the Hamilton County Health Department and the animal warden, and shall thereupon be securely quarantined at the direction of the animal warden for a period of ten (10) days, and shall not be released from such quarantine except by written permission of the animal warden. At the discretion of the animal warden, such quarantine may be on the premises of the owner, at the shelter designated as the city animal shelter, or at the owner's option and expense, in a hospital of his choice. In the case of stray animals, or in the case of animals whose ownership is not known, such quarantine shall be at the shelter designated as the city animal shelter.

The owner, upon demand made by the animal warden, shall forthwith surrender any animal which has bitten a human, or which is suspected as having been exposed to rabies, for a supervised quarantine, the expense of which shall be borne by the owner. The animal may be reclaimed by the owner, if adjudged free of rabies, upon payment of the fees set forth in § 10-208 and upon compliance with the licensing provisions set forth in § 10-203.

When an animal under the quarantine has been diagnosed as being rabid or is suspected by a licensed veterinarian of being rabid and dies while under such observation, the animal warden shall immediately send the head of such animal to the state health department for pathological examination, and shall notify the proper public health officer of any reports of human contact, and of the diagnosis made of the suspected animal.

When one or both reports give a positive diagnosis of rabies, the animal warden shall impose a city-wide quarantine for a period of thirty (30) days, and upon the invoking of such quarantine, no animal shall be taken into the streets, or permitted to be in the streets, during such period of quarantine.

During such period of rabies quarantine as herein mentioned, every animal bitten by an animal adjudged to be rabid, shall be forthwith destroyed, or at the owner's option and expense, shall be treated for rabies infection by a licensed veterinarian, or held under thirty (30) days quarantine by the owner in the same manner as other animals are quarantined.

In the event there are additional positive cases of rabies occurring during the period of the quarantine, such period of quarantine may be extended for an additional six (6) months.

No person shall kill, or cause to be killed, any rabid animal, any animal suspected of having been exposed to rabies, or any animal biting a human, except as herein provided, nor remove same from the city limits without written permission from the animal warden.

The carcass of any dead animal exposed to rabies shall upon demand be surrendered to the animal warden.

The animal warden shall direct the disposition of any animal found to be infected with rabies.

No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefor by the animal warden. Provided, further, that if the provisions of § 10-211 shall conflict with applicable laws, rules or regulations of the State of Tennessee, then such shall take precedence over this chapter to the extent of conflict. (1975 Code, § 3-210, as amended by Ord. #14-1005, Nov. 2014)

10-212. Physicians to report bite cases. It shall be the duty of every physician, or other practitioner, to report to the animal warden the names and addresses of persons treated for bites inflicted by animals, together with such other information as will be helpful in rabies control. (1975 Code, § 3-211)

10-213. Veterinarians to report rabies suspects. It shall be the duty of every licensed veterinarian to report to the animal warden his diagnosis of any animal observed by him as a rabies suspect. (1975 Code, § 3-212)

10-214. Exemptions. Hospitals, clinics, and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this chapter, except where such duties are expressly stated or as otherwise provided by the laws, rules or regulations of the State of Tennessee.

The licensing and vaccination requirements of this chapter shall not apply to any animal belonging to a non-resident of the city when such animal is kept within the city for not longer than thirty (30) days. However, all such dogs shall be kept within a building, enclosure, or vehicle, or otherwise under restraint by the owner at all times while in the city.

All dogs which are used for the purpose of assisting the blind, and which are commonly called "seeing eye" dogs shall be exempt from the license fee prescribed by § 10-203, provided, however, that the owner of such dog shall nevertheless be required to submit an application for and obtain a license therefor, but without the payment of the prescribed fee. This exemption shall apply only to the fee and shall not exempt the owner of such dog from the remaining provisions of this chapter. (1975 Code, § 3-213, as amended by Ord. #14-1005, Nov. 2014)

10-215. Enforcement. For the purpose of discharging the duties imposed by this chapter and to enforce its provisions, the animal warden, or any police officer, is empowered to enter upon any premises upon which a dog is kept or harbored and to demand the exhibition by the owner of such dog or the license for such dog. (1975 Code, § 3-214)

TITLE 11

MUNICIPAL OFFENSES[1]

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.
9. ARREST AND COMMITMENT.
10. FALSE ALARMS.

CHAPTER 1

ALCOHOL[2]

SECTION

11-101. Drinking alcoholic beverages, etc., on streets, etc.
11-102. Minors in beer places.
11-103. Distribution of alcoholic beverages to minors - penalties.

11-101. Drinking alcoholic beverages, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle or other container or glass of beer, wine (except for sacramental wine in the

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[1]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.

[2]Municipal code reference
Drinking in public or prohibited places: § 8-139.
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).

context of a church service) or intoxicating liquor, in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place, business, store parking lot, or other business oriented location where the public is invited for business purposes, either by express invitation or by implication, unless the place or premises has a permit and license for on premises consumption and is operating within the terms of its permit. Violation of this section shall be punished according to the general penalty provisions of the Red Bank city code. (1975 Code, § 10-228, as replaced by Ord. #02-861, Nov. 2002)

11-102. Minors in beer places. No minor under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1975 Code, § 10-222, modified)

11-103. Distribution of alcoholic beverages to minors - penalties. It shall be unlawful for any person to sell, give, or in any other manner distribute to persons under 21 years of age, any beer, wine or other alcoholic beverages in whatsoever nature. Any person found guilty of such offense shall pay a fine of $50.00 plus costs. In addition, such person shall be sentenced to imprisonment for a term of not less than five (5), nor more than thirty (30) days, provided, however, that the trial judge, may in his discretion, suspend the sentence upon completion of a period of community or public service, as determined by him. (1975 Code, § 10-227)

CHAPTER 2

FORTUNE TELLING, ETC.

SECTION

11-201. Fortune telling, etc.

11-201. Fortune telling, etc. It shall be unlawful for any person to conduct the business of, solicit for, or ply the trade of fortune teller, clairvoyant, hypnotist, spiritualist, palmist, phrenologist, or other mystic endowed with supernatural powers. (1975 Code, § 10-234, modified)

CHAPTER 3

OFFENSES AGAINST THE PERSON

SECTION

11-301. Simple assault.
11-302. Assault and battery.
11-303. Felonious taking of personalty.

11-301. Simple assault. It shall be unlawful for any person in the city to intentionally or knowingly cause another to reasonably fear imminent bodily injury; or, to intentionally or knowingly cause physical contact with another which a reasonable person would regard the contact as extremely offensive or provocative.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord #95-686, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

11-302. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1975 Code, § 10-201)

11-303. Felonious taking of personalty. It shall be unlawful for any person to feloniously take and carry away the personal goods of another. (1975 Code, § 10-236)

CHAPTER 4

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-401. Disorderly conduct.
11-402. Anti-noise regulations.
11-403. Disorderly conduct by drunks.

11-401. Disorderly conduct. 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. (1975 Code, § 10-202)

11-402. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar, 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, hooting, 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, streetcar, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

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

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

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

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

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

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

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

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the municipality while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the municipality, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the city manager. 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. (1975 Code, § 10-233)

11-403. Disorderly conduct by drunks. It shall be unlawful for any person, while under the influence of intoxicants, or in a drunken condition, to engage in any activity or do any act which disturbs or tends to disturb or aids in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, or to do any other act which would create, or tend to create, disorder or a breach of the peace. (1975 Code, § 10-235)

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 a police officer.
11-505. Coercing people not to work.
11-506. Interference, or attempt to interfere, with actions of law enforcement officers.
11-507. Influencing, or attempt to influence, law enforcement officer's actions.
11-508. Penalty for violation.
11-509. Violations by officers and employees of the city; grounds for removal.
11-510. Evading arrest.
11-511. Resisting stop, frisk, halt, search.

11-501. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the municipality to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1975 Code, § 10-209)

11-502. Impersonating a government officer or employee. No person other than an official police officer of the municipality shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the municipality. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1975 Code, § 10-211)

11-503. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1975 Code, § 10-217)

11-504. Resisting or interfering with a police officer. It shall be unlawful for any person to resist or in any way interfere with or attempt to interfere with any police officer while the latter is in the discharge or apparent discharge of his duty. (1975 Code, § 10-210)

11-505. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble,

congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1975 Code, § 10-230)

11-506. Interference, or attempt to interfere, with actions of law enforcement officers. It shall be unlawful for any person to interfere with, or attempt to interfere with, any law enforcement officer in the performance of his duties. (1975 Code, § 10-237)

11-507. Influencing, or attempt to influence, law enforcement officer's actions. It shall be unlawful for any person to influence, or attempt to influence, any law enforcement officer to persuade him to do any act, or to refrain from doing any act, contrary to his duties and obligations as a law enforcement officer. Specifically included within the prohibition of this section are all acts or actions, threats, promises, or any other oral or written communication designed or intended for the purpose of influencing the officer's action, or his testimony, in any case involving an alleged violation of any law or statute of the United States, or the State of Tennessee, or of any ordinance of this city, provided, however, that the scope of the prohibition encompassed by this section shall not be limited by the foregoing enumeration. (1975 Code, § 10-238)

11-508. Penalty for violation. In addition to all other penalties herein or otherwise provided, for violation of said §§ 11-506 and 11-507, any person found guilty of violating the provisions of either of said sections shall be punished by a fine of not more than $500.00 or by imprisonment of not more than thirty (30) days or by such fine and imprisonment, in the discretion of the trial judge. (1975 Code, § 10-240)

11-509. Violations by officers and employees of the city; grounds for removal. Any violation of §§ 11-506 or 11-507 by any member of the city commission, or by any employee or officer of the City of Red Bank shall be deemed grave misconduct showing unfitness for public duty, and shall constitute grounds for removal under the provisions of § 6-2032 of the charter of this city, subject to the provisions of said § 6-2032 of the charter. (1975 Code, § 10-239)

11-510. Evading arrest. It shall be unlawful for any person in the city to intentionally flee from a person known to be a law enforcement officer and the person knows that the officer is attempting to arrest the person, or has been arrested by a law enforcement officer.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or

both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-688, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

11-511. Resisting stop, frisk, halt, search. It shall be unlawful for any person in the city to intentionally prevent or obstruct anyone known to the person to be a law enforcement officer, or anyone acting in the law enforcement officer's presence and at such officer's direction, from effecting a stop, frisk, halt, arrest or search of any person, including the defendant by using force against the law enforcement officer or another.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-689, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

CHAPTER 6

FIREARMS, WEAPONS AND MISSILES

SECTION

11-601. Air rifles, etc.
11-602. Throwing missiles.
11-603. Discharge of firearms.

11-601. Air rifles, etc. It shall be unlawful for any person in the municipality to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1975 Code, § 10-213)

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. (1975 Code, § 10-214)

11-603. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1975 Code, § 10-212, modified)

CHAPTER 7

TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC

SECTION

11-701. Trespassing on trains.
11-702. Malicious mischief.
11-703. Interference with traffic.

11-701. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1975 Code, § 10-221)

11-702. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person to willfully, maliciously, or wantonly damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1975 Code, § 10-225)

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. (1975 Code, § 10-232)

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. No skateboards on city streets.
11-806. Dissemination of smoking materials to minors.
11-807. Criminal impersonation.
11-808. Use of false identification.
11-809. Theft of property.
11-810. Gambling -- confiscation, destruction of devices.
11-811. Lewd and indecent conduct.

11-801. Abandoned refrigerators, etc. (1) It is an offense for any person to place or permit to remain outside any dwelling, building or other structure, or within any warehouse or storage room or any unoccupied or abandoned dwelling, building or other structure, or at any other place, under such circumstances as to be accessible to children, any icebox, refrigerator, or other airtight or semi-airtight container which has a capacity of one and one-half (1 1/2) cubic feet or more and an opening of fifty (50) square inches or more and which has a door or lid equipped with a latch, magnetic or hermetically sealed or other fastening or closing device capable of securing such door or lid shut in an airtight or semi-airtight fashion.

(2) An offense under this section shall be punishable by confinement at the county workhouse of up to six months and a fine of not more than $500.00. (1975 Code, § 10-223, as replaced by Ord. #96-711, § 1, April 1996)

11-802. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1975 Code, § 10-231)

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. (1975 Code, § 10-227)

11-804. Curfew for minors. It shall be unlawful for any minor, under the age of eighteen (18) years, to be abroad at night after 11:00 P.M. unless upon a legitimate errand or accompanied by a parent, guardian, or other adult person having lawful custody of such minor. (1975 Code, § 10-224)

11-805. No skateboards on city streets. It shall be unlawful for any person to sit upon, stand upon, or ride in any form, fashion or manner a "skateboard" and/or "roller skates" upon any public street, alley, avenue, or highway within the city limits of the City of Red Bank, Tennessee. For the purposes of this section, a "skateboard" and/or "roller skates" are defined as any toy, piece of sports equipment, or means of conveyance which utilizes roller skating wheels either mounted on shoes, boots or "skates" or mounted upon a surface suitable for standing, sitting or riding. (1975 Code, § 10-241)

11-806. Dissemination of smoking materials to minors.

(1) Definitions. (a) "Disseminate" means to buy, attempt to buy or offer to buy.

(b) "Minor" means any unemancipated person under eighteen (18) years of age.

(c) "Purchase" means to buy, attempt to buy or offer to buy.

(d) "Smokeless tobacco product" means chewing tobacco, snuff, or any other tobacco product, the consumption of which does not require the ignition thereof.

(e) "Smoking paraphernalia" means a cigarette holder, cigarette papers, smoking pipe, water pipe or other item that is designated primarily to hold smoking material while the smoking material is being smoked.

(2) It shall be unlawful for any person to disseminate smoking material, smoking paraphernalia or any smokeless tobacco product to a minor within the city.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-687, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

11-807. Criminal impersonation. It shall be unlawful for any person, with the intent to injure or defraud another person, to assume a false identity, pretend to be a representative of some person or organization, pretend to be an officer or employee of the government, or pretend to have a handicap or disability.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of

incarceration shall be controlling. (Ord. #95-691, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

11-808. Use of false identification. It shall be unlawful for any person to exhibit false, fake or forged identification or credentials belonging to another, for the purpose of obtaining any goods or services with a value of less than five hundred dollars ($500.00) which such person would not otherwise be entitled to receive.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-690, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

11-809. Theft of property. It shall be unlawful for any person to commit theft of property, for the purposes of this chapter, if the value of the property is under five hundred and no/100 dollars ($500.00). A person commits theft of property if, with the intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-692, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

11-810. Gambling -- confiscation, destruction of devices. (1) It shall be unlawful for any person to play at any game of hazard or address for money or other valuable thing, or make any bet or wager for money or other valuable things (or to risk anything of value for a profit in return, as to any degree contingent on chance) where such person risks or stands to gain money or property of less than five hundred dollars ($500.00) in value.

(2) It shall be unlawful for any person to own, possess or distribute any gambling device. It shall be unlawful for any person to promote gambling or derive any pecuniary benefits other than personal winnings from gambling where the sum or value is less than five hundred dollars ($500.00).

(3) Police officers shall seize all slot machines, tip boards, punchboards, high score boards, tables, paraphernalia and all other devices used for gambling or gaming, and the chief of police shall confiscate and destroy such devices as directed by any court of competent jurisdiction.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-693, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

11-811. Lewd and indecent conduct. (1) Definitions. As used in this section, the following terms shall have the meanings indicated:

(a) "Public place" shall include: streets, sidewalks or highways; transportation facilities; schools; places of amusement; parks, playgrounds; restaurants; nightclubs, cocktail lounges; burlesque houses; bars; cabarets; taverns; taprooms; private fraternal, social golf or country clubs; or any place that allows the consumption of intoxicating beverages on the premises.

(b) "Wholly or substantially exposed to public view," as it pertains to breasts, shall mean the showing of female breast, in a public place, with less than a fully opaque covering of any portion of the breast below the top of the nipple.

(2) Indecent exposure. It shall be unlawful for any person in the city in a public place to engage in the willful and intentional exposure of such person's genitals or buttocks to one (1) or more other persons where the exposing person may reasonably expect his conduct to be viewed by another for the purpose of sexual arousal, gratification or offending the viewing person.

(3) Prohibited acts. It shall be unlawful for any person to perform in a public place, or for any person who owns or operates premises constituting a public place to knowingly permit or allow to be performed therein, any of the following acts or conduct:

(a) The performance of acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

(b) The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals in public; or

(c) The actual or simulated public displaying of the pubic hair, anus, vulva or genitals;

(d) The appearance by any female in a public place so costumed or dressed that one or both breasts are wholly or substantially exposed to public view, or any owner or operator of premises constituting a public place knowingly permitting or allowing any such person to appear on the premises owned or operated by him.

(4) Penalty. Any person violating any of the provisions of this section, upon conviction by the court, may be imprisoned for not more than thirty (30) days and shall be fined not less than twenty-five dollars ($25.00) nor more than

fifty dollars ($50.00) for each violation. (as added by Ord. #97-758, part 1, Dec. 1997)

CHAPTER 9

ARREST[1] AND COMMITMENT

SECTION

11-901. Persons -- examination by magistrate.
11-902. Temporary detention -- limitations.
11-903. Commitment of defendant.

11-901. Persons arrested -- examination by magistrate. Every person arrested by an officer of this city and charged with any offense against the municipal ordinances, or the laws of the State of Tennessee, or the United States, shall be promptly taken before a magistrate for examination thereof. (1975 Code, § 10-301)

11-902. Temporary detention -- limitations. In any case in which no magistrate is readily available, or in which the arresting officers desire to conduct an investigation or questioning of a person, such person may be held or detained for such reasons, for a reasonable period of time, provided, however, that in no event shall any person be detained or restrained of his liberty for any period in excess of 72 hours without having been taken before a magistrate for examination. (1975 Code, § 10-302)

11-903. Commitment of defendant. Upon the arrestee appearing before the magistrate, if it appears that an offense has been committed, and there is probable cause to believe the defendant guilty thereof, he shall be committed to jail, by an order in writing, unless the offense is bailable, and the defendant gives sufficient bail as required for his appearance at court. (1975 Code, § 10-303)

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[1]Municipal code reference
Police and arrest: title 6.

CHAPTER 10

FALSE ALARMS

SECTION

11-1001. Purpose.
11-1002. Definitions.
11-1003. Violations.
11-1004. Civil penalty for violations.
11-1005. Appeals.
11-1006. Failure to pay civil penalty.

11-1001. Purpose. The purpose of this chapter is to provide standards for regulation of automated and/or monitored alarm systems, devices, and alarm users within the City of Red Bank and to encourage the reduction of the incidence of false alarms responded to by the police department of the City of Red Bank and to further encourage the responsible utilization of reliable alarm systems and monitors. The provisions of this chapter shall apply to any person or entity who possesses, uses, operates or owns any alarm device that summons police department and/or emergency response personnel employed by the City of Red Bank and shall be known as the 2017 false alarm reduction ordinance. (as added by Ord. #18-1111, March 2018)

11-1002. Definitions. For purposes of this article the following definitions shall apply:

(1) "Alarm device." Any device and/or system which, when activated, transmits any signal to a monitoring facility, or produces an audible tone and/or visual signal, which results in the notification of police and/or emergency response personnel and to which such personnel are expected to respond.

(2) "Alarm user." Any natural person, business, corporation, LLC, entity, union, association, firm, partnership, committee, club or other organization or group of persons on whose property (owned, occupied, rented, or leased) an alarm device is owned, operated, used, maintained, or provided.

(3) "Central alarm station." Any facility operated by a private firm that owns or leases a system of alarm devices, which facility is either manned by operators and/or operated by any computer or other automated system and who/which receives, records, or validates in any way alarm signals and relays information about such validated signals to the police and/or fire stations and/or other emergency response personnel.

(4) "Dial alarm." A telephone device or telephone attachment that automatically or electronically selects a telephone line or other communications medium of any sort connected to the police station, 911 Emergency Communication Center and/or any other emergency response personnel and

produces a signal, connection, or reproduces a prerecorded message to report a criminal act or other emergency requiring police response.

(5) "Direct alarm." Any alarm device which transmits a signal over leased telephone lines or any other communications medium or device to a private central alarm station.

(6) "False alarm." Any alarm signal resulting from activation of an alarm device to which the police or other emergency responder respond which is not the result of a crime, probable crime, or other actual emergency. A false alarm shall and does mean any alarm signal resulting from any accidental or inadvertent signal and/or from any equipment malfunction.

(7) "Error or mistake or inadvertency." Any action by any alarm user owning, leasing, operating or controlling an alarm device installed in any dwelling building, commercial building, or place in the City of Red Bank, or any action by any agent or employee of, or anyone in privity with, said person, which results in the unintentional activation of said alarm device when no police or other emergency exists.

(8) "Malfunction." Any unintentional activation of any alarm device caused by a flaw in design or installation or operation of or the improper maintenance of the device. This shall not include any activation caused by violent conditions of nature or other extraordinary circumstances not reasonably subject to the control of the alarm device user.

(9) "Keyholder." The person or persons delegated by the alarm user to respond to an alarm activation. The keyholder may be the alarm user or any agent thereof.

(10) "Local alarm device." Any alarm device not connected to the central alarm station which, when activated, causes an audible and/or visual signaling device to be activated on the exterior of the premises within which the device is installed.

(11) "Manual alarm device." Any alarm device in which activation of the alarm signal is initiated by the direct action of the alarm user.

(12) "Person." An individual, business, corporation, LLC, union, association, firm, partnership, entity, committee, club or other organization or group of individuals. (as added by Ord. #18-1111, March 2018)

11-1003. <u>Violations</u>. (1)It shall be a violation of this chapter for any alarm device to be activated by error, mistake, inadvertence, or malfunction in any dwelling, building, or place when no emergency exists, where no crime or probable crime has been committed or is not reasonably believed to have been committed, and which alarm activation results in the response of the police department, fire department or other emergency responder(s).

(2) It shall be the responsibility of the alarm user, permittee, or person utilizing any alarm device and/or occupying such premises from which said alarm shall have been activated to ensure a keyholder response to each alarm activation. The failure to provide a keyholder response shall result in the

imposition of a civil penalty of one hundred dollars ($100.00) in each instance. (as added by Ord. #18-1111, March 2018)

11-1004. Civil penalty for violations. (1) No civil penalty shall issue or be collected from any singular alarm user and/or with respect to any singular premises for a single instance of violation during any then applicable running twelve (12) month period. The city manager shall make a reasonable effort to send warning and notice to the alarm user and property owner and/or occupant or tenant that:

(a) A first violation has occurred, and

(b) That subsequent violations will likely result in the imposition of civil penalties.

(2) In the event more than one (1) instance of violation shall occur from or by any alarm user and/or with respect to any singular premises during any running twelve (12) month period, a civil penalty shall be assessed against and collected from the alarm user or other responsible party as follows:

(a) For a second (2nd) violation within any running twelve (12) month period: fifty dollars ($50.00);

(b) For each third (3rd) or additional violation attributable to the same user and/or same alarm device within any running twelve (12) month period: one hundred fifty dollars ($150.00) for each subsequent violation within a running twelve (12) month period;

(c) The civil penalty(ies) thus collected shall be utilized by the city to partially defray the costs of the police, fire and/or emergency responders incurred in responding to false alarms. (as added by Ord. #18-1111, March 2018)

11-1005. Appeals. (1) Any person who is aggrieved because of the imposition of a civil penalty under this article may institute an appeal to the administrative hearing officer, within ten (10) days of the imposition of such civil penalty, by applying to the city manager or his designee in writing specifying the address, date of false alarm and civil penalty appealed from. Any person requesting a hearing shall be given written notice of the date, time and place of the hearing. Such hearing shall be held not less than thirty (30) days nor more than forty-five (45) days from the date of the mailing of the notice of hearing at a specific date and time and place at Red Bank City Hall, 3117 Dayton Boulevard, Red Bank, Tennessee, 37415.

(2) A person wishing to contest a notice of violation shall appear at the hearing and shall have the right to present evidence. A designated official of the city may present evidence on behalf of the city. The administrative hearing officer shall conduct a hearing in order and form as deemed fair and appropriate. Court rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The

administrative hearing officer shall announce a decision at the end of the hearing.

(3) Hearings will be at Red Bank City Hall, 3117 Dayton Boulevard, Red Bank, Tennessee, 37415. Neither the police department nor any other city official shall waive or have the authority to waive any civil penalty imposed. All appeals shall be heard by the administrative hearing officer whose decision shall be final subject only to review of writ of certiorari by the Chancery Court of Hamilton County, Tennessee. (as added by Ord. #18-1111, March 2018)

11-1006. Failure to pay civil penalty. If any person fails or otherwise to pay within thirty (30) days of the receipt of notice of any fine or charge imposed, unless they have requested an appeal, it shall be the right of the City of Red Bank to collect same via all legal means. (as added by Ord. #18-1111, March 2018)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. GAS CODE.
5. HOUSING CODE, SLUM CLEARANCE AND REDEVELOPMENT.
5A. UNSAFE BUILDING ABATEMENT CODE.
6. ENERGY CONSERVATION CODE.
7. SWIMMING POOL CODE.
8. LIFE SAFETY CODE.
9. MISCELLANEOUS SUPPLEMENTARY PROVISIONS.
10. MECHANICAL CODE.
11. HANDICAPPED ACCESSIBILITY BUILDING CODE.
12. TRAILERS AND MOBILE HOMES.
13. PROPERTY MAINTENANCE CODE.

CHAPTER 1

BUILDING CODE[1]

SECTION

12-101. Building code adopted.
12-102. Modifications.
12-103. Permit fees.
12-104. Correction of defects.
12-105. Available in manager's office.

12-101. Building codes adopted. (1) International Building Code adopted. Pursuant to authority granted by Tennessee Code Annotated, § 6-54-501, et seq., and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal and demolition of every building and/or any appurtenance connected to or attached to any structure, the

[1]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.

International Building Code,[1] 2012 edition, including Appendices A, C, F, G, H, I and K thereof, but specifically excluding Appendices B, D, E, H, J is hereby adopted as the official building code of the City of Red Bank by incorporating the same, herein by reference, by subject to further amendments as hereinafter set forth.

(2) International Residential Code adopted. For the purposes of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal and demolition of every residential structure in the City of Red Bank, the International Residential Code,[1] 2012 edition, including Appendices A through Q thereof, is hereby adopted as the official residential code of the City of Red Bank by incorporating the same herein by reference, but subject to further amendment(s) as hereafter set forth:

(a) Appendices L and O are not adopted and are specifically excluded.

(b) The following subsections are modified or excluded as follows:

(i) Section 313.2 shall not apply to single family dwellings but shall apply only to two (2) family dwellings;

(ii) Section R105.2 is amended by deleting Subsection 1 thereof and substituting:

One story detached accessory structures used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 120 square feet (11.15m2)

(iii) Section R105.5 is amended by deleting subsection 1 thereof and substituting:

Section R105.5 Expiration Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within thirty (30) from the date of issuance.

(iv) Section R311.2, Exit Doors Required, is amended by deleting subsection 1 thereof and substituting:

Not less than two exit doors conforming to this section shall be provided for each dwelling unit. The required exit doors shall provide for direct access for habitable portions of the dwelling to the exterior, without requiring travel through a garage. Access to habitable levels not having an exit in accordance with this section shall be by ramp in accordance with Section R311.8 or a stairway in accordance with Section R311.7.

Exception: Travel through a garage is allowed when the exterior wall of the garage has an exit door meeting the requirements of Section R311.4.2.

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[1]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Section R311.2.1 Door Type and Size The required exit door shall be a side-hinged door not less than 3 feet (914mm) in width and 6 feet 8 inches (2032mm) in height. Other doors shall not be required to comply with these minimum dimensions.

Exception: The second means of egress exit door shall be a side-hinged door or a side sliding door not less than 2 feet 8 inches (812mm) in width and 6 feet 8 inches (2032mm) in height.

(v) Section R322 is amended by deleting Subsection 1 in its entirety and substituting:

Section R322 Flood Resistant Construction is deleted in its entirety and the following language shall be substituted in lieu thereof.

The appropriate Flood Hazard Regulations of the Red Bank Zoning Ordinance and the Federal Regulations referenced therein shall constitute the official regulations of the City of Red Bank with regard to any construction within the Flood Hazard Zone.

IRC Chapter 11 entitled Energy Efficiency of the 2012 International Residential Code is deleted in its entirety.

(vi) Section R322 is amended by deleting Subsection 1 in its entirety and substituting:

Section R403 Table R403.1 entitled Minimum Width of concrete or Masonry Footings is deleted in its entirety and the following Amended Table and subsection is adopted in lieu thereof:

TABLE R403.1
MINIMUM WIDTH OF CONCRETE OR MASONRY FOOTINGS
(Inches)"

LOAD BEARING VALUE OF SOIL (psf)				
	1,500	2,000	3,000	>/- 4,000
Conventional light-frame Construction				
1-story	16	16	16	16
2-story	19	16	16	16
3-story	27	21	16	16
4-inch brick veneer over light frame or 8-inch hollow concrete masonry				
1-story	16	16	16	16
2-story	25	20	16	16
3-story	36	28	20	16

8-inch solid or fully granted masonry				
1-story	20	16	16	16
2-story	33	25	18	16
3-story	46	36	25	20

For SI: 1 inch = 25.4 mm, 1 pound per square foot = KN/m2.

Where minimum footing width is 16 inches, a single Wy the of solid or fully Grouted 12-inch nominal concrete masonry units is permitted to be used.

R403.1.3.1 Foundations with Stem Walls is amended to provide that Foundations with stem walls shall be provided with a minimum of one No. 4 bar at the top of the wall and one No. 4 bar at the bottom of the footing. (1975 Code, § 4-101, as replaced by Ord. #97-739, June 1997, Ord. #04-897, Jan. 2005, and Ord. #11-965, Aug. 2011, amended by Ord. #13-987, May 2013, and replaced by #16-1069, Oct. 2016)

12-102. Modifications. Whenever the building code refers to the "Chief Appointing Authority" or the "Chief Administrator," it shall be deemed to be a reference to the city manager of the City of Red Bank. Whenever the term "applicable governing body" is referred to in the building code, the same shall be deemed to be the board of commissioners of the City of Red Bank. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the building code. Whenever the building code refers to the "Board of Adjustments and Appeals," it shall be deemed to be a reference to the Board of Zoning Appeals of the City of Red Bank, which is hereby invested with all the powers of the board of adjustments and appeals referred to in the building code. (1975 Code, § 4-102)

12-103. Permit fees. The permit fees applicable under this chapter shall be as follows:

(1) Permit fees:

Total Valuation	Fee
$1,000 and less	No fee, unless inspection required, in which case a $25.00 fee for each inspection shall be charged.

$1,001 to $50,000	$50.00 for the first $1,000.00 plus $5.00 for each additional thousand or fraction thereof, to and including $50,000.00.
$50,001 to $100,000	$295.00 for the first $50,000.00 plus $4.00 for each additional thousand or fraction thereof, to and including $100,000.00.
$100,001 to $500,000	$495.00 for the first $100,000.00 plus $3.00 for each additional thousand or fraction thereof, to and including $500,000.00.
$500,001 and up	$1,695.00d for the first $500,000 plus $2.00 for each additional thousand or fraction thereof.

(2) Moving of building or structures: For the moving of any building or structure, the fee shall be $250.00 together with any cost incurred by the city to be determined on a case by case basis.

(3) Demolition of building or structures: For the demolition of any building or structure, the fee shall be:

Residential Structures (maximum of 4 units)	$250.00
Non-Residential and Apartments	$250.00
Each Unit over four	$50.00/each

(4) Plan checking fee: A plan checking fee equal to 30% of the building permit fee shall be charged when the value of the proposed construction exceeds $75,000.00.

(5) Penalties: Where work for which a permit is required by this code is started or proceeded with prior to obtaining said permit, the fees herein specified may be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this code in the execution of the work nor from any other penalties prescribed herein.

PUBLIC WORKS DEPARTMENT
INSPECTION DIVISION FEES

	New Fees
Certificates of Occupancy (New facility)	50.00
Certificates of Occupancy (Conditional)	100.00

Certificates of Occupancy (Existing facility) 100.00

Certificates of Occupancy (Beverage License Only) 100.00

Certificates of Completion 50.00

Zoning Letter 50.00

Home Occupation (Application for Permit) 50.00

Code Compliance Letter
(Basic) 50.00
(Detailed Report)

0-10,000 sq. ft.	.05 (sq. ft.)	10
10,000 and up	.05 (sq. ft.)	5
10,000 and up (Whse/Factory Ind.)	500.00 plus*	5

* .02 sq. ft. for each additional sq. ft. above 10,000 (max $2,000.00)

Re-inspections 25.00

Permit transfer 25.00

Modular Home Site Location Investigation 250.00

Plan Checking Fee . . . . . 30% of Bldg. Permit Fee

Phased Construction Plans Review . . . . . 50% of Bldg. Permit Fee ($5,000 Maximum fee as approved)

Cell Tower Site Review 250.00

Cell Tower Tech Location Requirements Review 1,500.00

Construction Board of Appeals (City Commission)
1- and 2-family 50.00
All other 100.00

Zoning Board of Appeals (Variance Request) 100.00

Sign Board of Appeals (City Commission)
Variance Request 100.00

Failure to Obtain Permit . . . . . Double Permit Fee

Floodplain Variance Request 100.00

Fire District Removal Request 100.00

(1975 Code, § 4-103, as replaced by Ord. #97-739, June 1997, and Ord. #04-897, Jan. 2005)

12-104. Correction of defects. Any person who shall fail to correct any defect in his work within a reasonable time after having been duly notified of such defects by the chief building inspector, or his assistants, shall not receive any further permit until such defect or defects the chief building inspector shall be notified of such corrections. One inspection will be made after notice of correction at no charge; if however, the defects or violations have not been corrected in accordance with this chapter and/or code there will be a charge of three dollars ($3.00) for each additional inspection required caused by noncompliance. If such person fails to notify the building inspection department that such defects have been corrected within ten (10) days after notice by the inspector to correct the defect then there will be a penalty of five dollars ($5.00) and each additional day over ten (10) days shall constitute a separate offense. (1975 Code, § 4-104)

12-105. Available in manager's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the building code has been placed on file in the city manager's office and shall be kept there for the use and inspection of the public. (1975 Code, § 4-105, modified)

CHAPTER 2

PLUMBING CODE[1]

SECTION

12-201. Plumbing code adopted.
12-202. Modifications.
12-203. Available in manager's office.
12-204. Violations.
12-205. Schedule of fees.
12-206. Penalty.

12-201. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating plumbing installations, including alterations, repairs, equipment, appliances, fixtures, fittings, and the appurtenances thereto, within or without the municipality, when such plumbing is or is to be connected with the city's water supply systems (Hixson Utility District or Tennessee American Water Co.) or the city's sanitary sewer system (Water and Waste Water Treatment of Hamilton County) and/or to any private septic system, the International Plumbing Code,[2] 2012 edition, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the plumbing code, specifically Appendices B-Rates of Rainfall, C-Vacuum Drainage System, Degree Day Temperature, E-Sizing of Water Piping, and F-Structural Safety thereof and by adopting revised versions of the following subsections as part of the official plumbing code of the city.

Section 305.4.1 Sewer Depth: Sewer Depth is amended by substituting the words "twelve (12) inches" for the phrase "(number) inches (mm)" wherever such phrase appears within the subsection.

Section 504.6 Requirements for Discharge Piping: Section 504.6 (5) is amended by deleting a portion of the sentence "to the pan serving the water heater or storage tank".

Section 903.1 Roof Extension: Roof Extension is amended by substituting the words "six (6) inches" for the phrase "(number)

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[1]Municipal code references
Cross connections: title 18.
Street excavations: title 16.
Wastewater treatment: title 18.
Water and sewer system administration: title 18.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

inches (mm)" wherever such phrase appears within this subsection.
Section 918 Air Admittance Valve: Air Admittance Valve is amended by adding a new section 918.9 which shall read as follows:
"918.9 - Any use of air admittance valves on fixture branches is subject to the discretion and approval of the Plumbing Official. The use of air admittance valves are prohibited on all new construction".
Section 919 Engineering Vent Systems: Engineering Vent Systems is amended by deleting said section and all of its subsections in their entirety. (1975 Code, § 4-201, as replaced by Ord. #97-739, June 1997, Ord. #04-897, Jan. 2005, and Ord. #11-965, Aug. 2011, and amended by Ord. #16-1069, Oct. 2016)

12-202. Modifications. Wherever the plumbing code refers to the "Chief Appointing Authority," or the "Administrative Authority," it shall be deemed to be a reference to the city manager of the City of Red Bank. Whenever the plumbing code refers to the "governing authority" it shall be deemed to be a reference to the board of commissioners of the City of Red Bank.

Wherever "City Engineer," "Engineering Department," "Plumbing Official," or "Inspector" is named or referred to, it shall mean the person appointed or designated by the city manager to administer and enforce the provisions of the plumbing code or any part or parts thereof. (1975 Code, § 4-202)

12-203. Available in manager's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the plumbing code with the above modifications has been placed on file in the city manager's office and shall be kept there for the use and inspection of the public. (1975 Code, § 4-203, modified)

12-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provision of the plumbing code as herein adopted by reference and modified. (1975 Code, § 4-204)

12-205. Schedule of fees. The following fees shall be paid and collected at the time that the plumbing permit is granted:

Appendix H - Permit fees.

Permit fees:

For issuing each permit $50.00

In addition:

For issuing each plumbing fixture, floor drain or trap (including water and drainage piping) 5.00

For each house sewer, service line or cleanout	8.00
For each house sewer , service line or cleanout having to be replaced or repaired	8.00
For each water heater and/or vent	5.00
For installation, alteration or repair of water piping and/or water treatment equipment	8.00
For repair or alteration of drainage or venting piping	5.00
For Vacuum Breakers or backflow protective devices installed subsequent to the installation of the piping or equipment served - one to five	2.50
Over five, each	1.00
Re-inspection fee	50.00
For Sewers: Contact Hamilton County Water and Wastewater treatment Authority	

(1975 Code, § 4-205, as replaced by Ord. #97-739, June 1997, and Ord. #04-897, Jan. 2005)

12-206. <u>Penalty</u>. Any person, firm or corporation who shall violate any of the provisions of this chapter, or fail, neglect or refuse to comply with the rules or regulations therein and thereby promulgated or adopted, or shall fail, neglect, or refuse to comply with any lawful and authorized order to request of the plumbing inspector, or any other competent person designated by the City of Red Bank shall be deemed guilty of a misdemeanor, shall be subject to a fine of up to $50.00 per each day of such failure or refusal, with each and every day's violation being deemed to constitute a separate offense, punishable with a fine/penalty of up to $50.00 for each day. (as added by Ord. #05-912, Jan. 2006)

CHAPTER 3

ELECTRICAL CODE[1]

SECTION

12-301. Electrical code adopted.
12-302. Violations, penalty.
12-303. [Deleted.]
12-304. Available in manager's office.
12-305. General rules of inspector.
12-306. Inspector's right of entry.
12-307. General duty to make inspections.
12-308. Covering uninspected work.
12-309. Duty to inspect and test wiring.
12-310. Reinspecting existing wiring.
12-311. Condemning defective wiring.
12-312. Temporary permission to use current.
12-313. Permits required.
12-314. Notice when work ready for inspection; inspection, approval.
12-315. Licenses and certificates required.
12-316. To whom permits may issue.
12-317. Permit fees for contractors.
12-318. Permit fees for sign contractors.
12-319. Notice, correction of defects.
12-320. Violations.
12-321. Enforcement.

12-301. Electrical code adopted. (1) Pursuant to authority granted by Tennessee Code Annotated, § 6-54-501, et seq., and for the purpose of providing practical minimum standards for the safeguarding of persons and of buildings and their contents from hazards arising from the use of electricity for light, heat, power, radio, signaling, or for any other purposes, the National Electrical Code,[2] 2011 edition, together with all amendments and appendices, unless otherwise expressly amended as detailed below, as now or hereafter prepared, approved, and adopted by the National Fire Protection Association, is hereby approved and incorporated by reference as a part of this code, and is hereinafter referred to as the electrical code.

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[1]Municipal code references
Fire protection, fireworks and explosives: title 7.

[2]Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

The following sections of the National Electrical Code, 2008 edition, are hereby amended, as hereinafter approved:

(a) Section 210.12 is amended to delete said section in its entirety and substitute in lieu thereof:

AFCI outlets shall be required in all bedrooms in any dwelling unit and shall be optional in all other rooms of a dwelling unit as previously required in Sections 210.12 of the National Electrical Code, 2006 Edition.

(b) Sections 210.19(A)(3) as written is deleted in its entirety and substitute in lieu thereof the requirement that all range tops shall be on separate wired circuits.

(c) Section 210.52.C(2) and (3), are deleted in their entirety with no substitutions made.

(d) Section 210.52.C(5) as written is amended to delete all reference to the subparagraph entitled "Exception" .

(e) Section 338.10(B)(4)(a) is deleted in its entirety.

(2) Electric permits. The city commission, having acted by ordinance and, by contract to designate the Hamilton County Electrical Inspector as the Electrical Inspector for the City of Red Bank, the fee schedule for the issuance of permits and/or charges for inspection which shall currently, or as of the date of the requested permit or inspection then be in effect for the Hamilton County Electrical Inspector, shall be the permit or inspection fee to be charged by the Hamilton County Electrical Inspector as the designated inspector for the City of Red Bank. (1975 Code, § 4-301, as replaced by Ord. #04-897, Jan. 2005, and amended by Ord. #11-965, Aug. 2011, and Ord. #16-1069, Oct. 2016)

12-302. Violations, penalty. Any person, firm, or corporation who shall violate any of the provisions of this chapter, or fail, neglect, or refuse to comply with the rules or regulations therein and thereby promulgated or adopted, or shall fail, neglect, or refuse to comply with any lawful and authorized order or request of the electrical inspector, or other competent person designated, shall be deemed guilty of a misdemeanor, and each and every day's violation shall constitute a separate offense. (1975 Code, § 4-302)

12-303. [Deleted.] (1975 Code, § 4-303, as replaced by Ord. #97-739, June 1997, and deleted by Ord. #04-897, Jan. 2005)

12-304. Available in manager's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the electrical code has been placed on file in the city manager's office and shall be kept there for the use and inspection of the public. (1975 Code, § 4-304, modified)

12-305. General rules of inspector. The chief electrical inspector for the City of Red Bank shall be an electrician currently registered with the State of Tennessee and shall hold an electrician's license issued by Hamilton County,

Tennessee. In the discretion of the city manager, the duly designated Hamilton County Electrical Inspector may be designated to perform inspection duties and activities for the City of Red Bank under the provisions of this chapter. The city manager is hereby expressly authorized to enter such inter-governmental agreement with Hamilton County as may be necessary to effectuate this function.

The chief electrical inspector is hereby authorized, empowered, and directed to regulate and determine the placing of electric light and power wires in and on buildings in the city so as to prevent fires, accidents, or injuries to persons or property. He shall cause all electrical appliances to be so placed, constructed, and guarded as not to cause fires or accidents or endanger life or property. Wherever in the judgment of said chief electrical inspector any electric wires or appliances shall be defective by reason of improper or insufficient insulation, or for any other cause, the said electrical inspector shall at once cause the immediate removal of such defect. (1975 Code, § 4-305)

12-306. Inspector's right of entry. The city's chief electrical inspector, or his assistants, shall have the right to enter any building, manhole, or subway, at any reasonable hour (8:00 A.M. to 6:00 P.M.), or at any hour in case of an emergency, in the discharge of his or their official duty or for the purpose of making any tests of the electrical apparatus or appliance therein contained. For this purpose, he shall be given prompt access to all buildings, public and private, and to all manholes and subways on application to the company or individual owning or in charge or control of the same. (1975 Code, § 4-306)

12-307. General duty to make inspections. The chief electrical inspector shall, during the installation of an electric wiring system, make or cause inspections to be made to insure compliance with this chapter and the rules. (1975 Code, § 4-307)

12-308. Covering uninspected work. No work in connection with an electrical wiring system shall be covered or concealed until it has been inspected as prescribed in this chapter and permission to do so has been given by the electrical inspector. (1975 Code, § 4-308)

12-309. Duty to inspect and test wiring. The chief electrical inspector shall, within a reasonable time after notice of completion of electrical wiring for which a permit is required by this chapter, make or cause to be made an inspection of such work and make such tests as may be necessary to determine that such wiring conforms with this chapter and the rules. (1975 Code, § 4-309)

12-310. Reinspecting existing wiring. The chief electrical inspector shall make or cause to be made a reinspection of an existing wiring installation

whenever he deems it necessary in the interest of public safety. (1975 Code, § 4-310)

12-311. Condemning defective wiring. If an electric wiring system upon reinspection is found to be defective and unsafe, the chief electrical inspector shall revoke all certificates in effect at that time relating to such system and the use of such system shall be discontinued until it has been made to conform to this chapter and the rules and a new certificate has been issued by the chief electrical inspector. (1975 Code, § 4-311)

12-312. Temporary permission to use current. The chief electrical inspector may, in his discretion, give temporary permission, for a reasonable time, to supply and use current in part of an electrical installation before such installation has been fully completed and the certificate issued. (1975 Code, § 4-312)

12-313. Permits required. No alteration or change shall be made in the wiring of any building or premises, nor shall any building or premises be wired for the placing of electric light, motors, signs, or devices without first securing from the chief electrical inspector, or a competent person designated by him a permit therefor. A copy of such permit shall be displayed in a conspicuous place at the job site at all times from the time of issuance until the final inspection. No change shall be made in the electric plant after inspection without notifying the chief electrical inspector and securing a permit therefor. (1975 Code, § 4-313)

12-314. Notice when work ready for inspection; inspection, approval. Upon completion of the wiring of any building, and of the wiring of signs before their installation, notice shall be given to the electrical inspector. He shall at once inspect the same, and if approved by him, shall issue a certificate of satisfactory inspection which shall contain the date of such inspection. The approval for signs shall be shown on the approved city sign label, but no such certificate or label shall be issued unless the electric light, power, sign, or heating installation and all apparatus, wires, etc., connected with it shall be in strict conformity with the rules and regulations herein set forth; nor shall current be turned on to any such installation until said certificate or label is issued. (1975 Code, § 4-314)

12-315. Licenses and certificates required. No person shall engage in or hold himself out as being in the business of installing, maintaining, altering or repairing the electrical wiring, devices, signs, appliances or equipment in the city unless such person has received an electrical license of the appropriate class and a certificate therefor; or in the case of a firm or corporation, unless it is owned or operated by, or has in its regular employment,

a person who has received an electrical license of the appropriate class and a certificate therefor.

For the purposes of this section and this chapter, the electrical license referred to shall be deemed to mean a current electrician's license issued by Hamilton County, Tennessee.

Permits shall be issued only upon written applications made therefor to the city. All applications for permits shall be made by and in the name of the licensed electrical contractor undertaking to do the work proposed and also in the name of the firm or corporation with whom or by whom the contractor is associated or employed. (1975 Code, § 4-315)

12-316. To whom permits may issue. No application shall be received from, or permit issued to, any person not legally authorized by law to engage in the business of, or to hold himself out to the public as engaging in the business of that of a "licensed electrical contractor." A licensed electrical contractor shall be an individual, meeting the licensing requirements hereinabove set out, and who shall also hold a valid CONTRACTOR'S license issued by the State of Tennessee. Provided, however, that nothing contained herein shall prohibit an electrician licensed by Hamilton County, Tennessee, from obtaining an electrical permit to do electrical work on any residence owned and occupied by said licensed electrician, it being the intent of the city commission to exempt licensed electricians from the "electrical contractor" provision of this sub-section. (1975 Code, § 4-316)

12-317. Permit fees for contractors. Before any electrical contractor obtains a permit for wiring or installing any electrical machinery, lighting equipment, appliances, or accessories, he shall pay a fee for such permit based upon the following scale:

(1) The city commission, having acted by ordinance and, by contract to designate the Hamilton County Electrical Inspector as the Electrical Inspector for the City of Red Bank, the fee schedule for the issuance of permits and/or for charges for inspections which shall currently, or as of the date of the requested permit or inspection then be in effect for the Hamilton County Electrical Inspector, shall be the permit or inspection fee to be charged by the Hamilton County Electrical Inspector as the designated inspector for the City of Red Bank.

(2) All such charges, fees, and/or applications shall be made to and requested from the Hamilton County Electrical Inspector's office at such place or places as he may from time to time designate, provided, however, nothing contained herein shall prohibit the city manager, upon the passage of a correct resolution by the city commission, from assuming the responsibilities of the electrical inspector and charging the permit and inspection fees as shall then be currently in effect for Hamilton County. (1975 Code, § 4-317)

12-318. Permit fees for sign contractors. Before any electrical sign contractor obtains a permit for installing and connecting an electric sign, he shall pay a fee for such permit based upon the following scale:

(1)	25 square feet or less	$1.00
	Each additional square foot	0.05
(2)	When sign is removed and re-erected at same location on same supports	2.00
(3)	Signs that are moved from one location to another, permit to be taken for erection at new location	2.00
(4)	Billboard neon	3.00

Permit not required for removal.
(1975 Code, § 4-318)

12-319. Notice, correction of defects. (1) Any person who shall fail to correct any defects in his work within a reasonable time after having been duly notified of such defects by the chief electrical inspector, or his assistants, shall not receive any further permit until such defect or defects have been corrected. Immediately after the correction of such defect or defects the chief inspector shall be notified of such corrections. One inspection will be made after the notice of correction at no charge. If, however, the defects or violations have not been corrected in accordance with this chapter and/or the code hereby adopted, there will be a charge of three dollars ($3.00) for compliance.

(2) It shall be unlawful for any person to fail to contact the electrical inspection department within ten (10) days after receiving a notice to correct a defect as required by this section. (1975 Code, § 4-319)

12-320. Violations. It shall be unlawful for any person to do or authorize any electrical work or to use any electricity in such manner or under such circumstances as not to comply with this chapter and/or the requirements and standards prescribed by the electrical code. (1975 Code, § 4-320)

12-321. Enforcement. The electrical inspector shall be the city manager or such other person as he or the city commission shall appoint or designate.

It shall be his duty to enforce compliance with this chapter and the electrical code as herein adopted by reference. He is authorized and directed to make such inspections of electrical equipment and wiring, etc., as are necessary to insure compliance with the applicable regulations and may enter any

premises or building at any reasonable time for the purpose of discharging his duties. He is authorized to refuse or discontinue electrical service to any person or place not complying with this chapter and/or the electrical code. (1975 Code, § 4-321)

CHAPTER 4

GAS CODE[1]

SECTION

12-401. Gas code adopted.
12-402. Fees.
12-403. Liabilities not affected.
12-404. Available in manager's office.
12-405. Use of existing piping and appliances.
12-406. Bond, license required.
12-407. Office of gas inspector created.
12-408. Powers and duties of inspector.
12-409. Permits.
12-410. Inspection.
12-411. Certificates.
12-412. Violations.
12-413. Amendments to the code.
12-414. Unlawfully turning gas on or reconnecting.
12-415. [Deleted.]
12-416. Responsibility for violations due to changed conditions.
12-417. Permit requirements for gas companies.

12-401. Gas code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purposes of regulating the installation of consumers gas piping and gas appliances and the supplying of gas to consumers, the International Fuel Gas Code,[2] 2012 edition, is hereby adopted and incorporated by reference as a part of this code, and shall hereafter be referred to as the gas code. (1975 Code, § 4-401, as replaced by Ord. #97-739, June 1997, and Ord. #04-897, Jan. 2005, and amended by Ord. #11-965, Aug. 2011, and Ord. #16-1069, Oct. 2016)

12-402. Fees. For examination of an application for a permit for any construction, installation, reinstallation, alteration or repair covered by this chapter, and, as is applicable for subsequent inspections, the city shall collect, at the time of issuing such permit, fees as follows:

(1) For issuing each permit, a fee of $50.00 will be charged;

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[1]Municipal code reference
Gas system administration: title 19, chapter 2.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(2) The total fees for inspection of consumer's gas piping at one location (including both rough and final piping inspection) shall be $50.00 for one to four outlets, inclusive, and $5.00 for each additional outlet;

(3) The fees for inspecting conversion burners, floor furnaces, incinerators, boilers, or central heating or air conditioning units shall be $50.00 for one unit and $5.00 for each additional unit;

(4) The fee for inspecting vented wall furnaces and water heaters shall be $50.00 for one unit and $5.00 for each additional unit;

(5) If a re-inspection is required, an additional fee of $25.00 will be charged;

(6) If any person commences any work before obtaining the necessary permit and inspection, fees shall be doubled; and

(7) Any and all fees shall be paid by the person to whom the permit is issued. (1975 Code, § 4-402, as replaced by Ord. #04-897, Jan. 2005)

12-403. Liabilities not affected. This chapter shall not be construed as imposing upon the city any liability or responsibility for damages to any person injured by any defect in any gas piping or appliance mentioned herein, or by installation thereof, nor shall the gas inspector, the city, or any official, employee, or authorized assistant thereof, be held as assuming any such liability or responsibility by reason of the inspection authorized hereunder, or the certificate of approval issued by the inspector. (1975 Code, § 4-403)

12-404. Available in manager's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the gas code has been placed on file in the city manager's office and shall be kept there for the use and inspection of the public. (1975 Code, § 4-404, modified)

12-405. Use of existing piping and appliances. Notwithstanding any provision in this chapter to the contrary, consumer's piping installed prior to the adoption of this chapter or piping installed to supply other than natural gas may be converted to natural gas if the inspector finds, upon inspection and proper tests, that such piping will render reasonably satisfactory gas service to the consumer and will not in any way endanger life or property; otherwise, such piping shall be altered or replaced, in whole or in part, to conform with the requirements of this chapter. (1975 Code, § 4-405)

12-406. Bond, license required. (1) In order to protect the public safety, no permit shall be issued for the installation of a gas appliance except to a licensed appliance dealer meeting the requirements of this chapter or a licensed contractor who has paid the privilege tax required by the laws of the state, the code of the city, and other ordinances of the city. Before the city may issue a permit to install a gas appliance or appurtenance thereto as provided elsewhere in this chapter, the applicant must file and keep on file with the city

recorder a bond in the sum of five thousand dollars ($5,000.00) with a surety company authorized to do business in the state as a surety expressly agreeing to fully indemnify the city against all claims, damages, or costs of personal injuries or property damage, or as a result of the failure of the applicant to fully comply with all the provisions of this chapter.

(2) Nothing contained herein shall be construed as prohibiting an individual from installing or repairing his own appliances or installing, extending, replacing, altering, or replacing consumers' piping on his own premises, or premises occupied by him or as requiring a bond or license from an individual doing such work on his own premises; provided, however, all such work must be done in conformity with all other provisions of this chapter relating to permits, permit fees, inspection, materials, etc. (1975 Code, § 4-406)

12-407. Office of gas inspector created. To provide for the administration and enforcement of this chapter, the office of gas inspector is hereby created. The inspector, and such assistants as may be necessary in the proper performance of the duties of the office, shall be such person or persons as may be designated by the city manager. (1975 Code, § 4-407)

12-408. Powers and duties of inspector. (1) The inspector is authorized and directed to enforce all of the provisions of this chapter, and the inspector, upon presentation of proper credentials, may enter any building or premises at reasonable times for the purpose of making inspections or preventing violations of this chapter.

(2) The inspector is authorized to disconnect any gas piping or fixture or appliance for which a certificate of approval is required but has not been issued with respect to same, or which, upon inspection, shall be found defective or in such condition as to endanger life or property. In all cases where such a disconnection is made, a notice shall be attached to the piping, fixture, or appliance disconnected by the inspector, which notice shall state that the same has been disconnected by the inspector, together with the reason or reasons therefor, and it shall be unlawful for any person to remove said notice or to reconnect said gas piping or fixture or appliance without authorization by the inspector and such gas piping or fixture or appliance shall not be put in service or used until the inspector has attached his certificate of approval in lieu of his prior disconnection notice.

(3) It shall be the duty of the inspector to confer from time to time with representatives of the local health department, the local fire department, and the gas company, and otherwise obtain from proper sources all helpful information and advice, processing same to the appropriate officials from time to time for their consideration. (1975 Code, § 4-408)

12-409. Permits. (1) No person shall install a gas conversion burner, floor furnace, central heating plant, vented wall furnace, water heater, boiler,

consumer's gas piping, or covert existing piping to utilize natural gas without first obtaining a permit to do such work from the city recorder; however, permits will not be required for setting or connecting other gas appliances, or for the repair of leaks in house piping.

(2) When only temporary use of gas is desired, the inspector my issue a permit for such use for a period of not to exceed sixty (60) days, provided the consumer's gas piping to be used is given a test equal to that required for a final piping inspection.

(3) The gas company shall not be required to obtain permits to set meters, or to extend, relocate, remove, or repair its service lines, mains, or other facilities, or for work having to do with its own gas system. (1975 Code, § 4-409)

12-410. **Inspection**. (1) A rough piping inspection shall be made after all new piping authorized by the permit has been installed and before any such piping has been covered or concealed or any fixtures or gas appliances have been attached thereto.

(2) A final piping inspection shall be made after all piping authorized by the permit has been installed and after all portions thereof which are to be concealed by plastering or otherwise have been so concealed and before any fixtures or gas appliances have been attached thereto. This inspection shall include a pressure test at which time the piping shall stand an air pressure equal to not less than the pressure of a column of mercury six (6) inches in height, and the piping shall hold this air pressure for a period of at least ten (10) minutes without any perceptible drop. A mercury column gauge shall be used for the test. All tools, apparatus, labor, and assistance necessary for the test shall be furnished by the installer of such piping. (1975 Code, § 4-410)

12-411. Certificates. The inspector shall issue a certificate of approval at the completion of the work for which a permit for consumer piping has been issued if after inspection it is found that such work complies with the provisions of this chapter. A duplicate of each certificate issued covering consumer's gas piping shall be delivered to the gas company and used as its authority to render gas service. (1975 Code, § 4-411)

12-412. Violations. Any person who shall violate or fail to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined under the general penalty clause for the code of ordinances or the license of such person may be revoked, or both a fine and revocation of license may be imposed. (1975 Code, § 4-412)

12-413. Amendments to the code. The Standard Gas Code, adopted by this chapter is hereby amended in the following respects:

Section 104.1.1. Add to said section the following sentence:

Each qualified agency must maintain currently in force a public liability bond or insurance policy in the sum of $50,000.00 to cover any deaths, injuries, losses, or damages caused by negligent, inadequate, imperfect, or defective work done by the agency, or by any agent or employee thereof while acting in the course and scope of his employment, and shall file with the city evidence thereof.

Section 104. Add a new paragraph numbered 104.9 as follows:

104.9. Gas to be odorized. All natural petroleum gas shall have a distinctive odor characteristic.

Section 202. Add a paragraph at the bottom of the second paragraph to read as follows:

(C) All new gas or repaired services shall have an accessible outside cut-off readily identifiable to firemen.

Section 505.1.3. Strike the last sentence in that section and substitute in lieu thereof the following:

Room heaters installed in all sleeping quarters or rooms generally kept closed shall be of the vented type and shall be connected to an effective chimney or gas vent and equipped with a safety shut-off device. (1975 Code, § 4-413)

12-414. Unlawfully turning gas on or reconnecting. It shall be unlawful for any person except an authorized agent or employee or a person engaged in the business of furnishing or supplying gas, and whose pipes or suppliers connect with a particular premises, to turn on or re-connect gas service in or on any premises when and where gas service is not at the time being rendered. It shall also be unlawful to turn on or connect gas on or in any premises unless the proper inspection has been made as provided for in this chapter. (1975 Code, § 4-414)

12-415. [Deleted.] (1975 Code, § 4-415, as replaced by Ord. #97-739, June 1997, and deleted by Ord. #04-897, Jan. 2005)

12-416. Responsibility for violations due to changed conditions. Should any change in operating conditions be made following the installation, the owner shall be responsible for any violations of this chapter or other ordinances that may result therefrom. (1975 Code, § 4-416)

12-417. Permit requirements for gas companies. The gas company will not be required to obtain permits to set meters or to extend, relocate, remove, or repair service lines or mains or other related facilities or for work having to do with its gas system, unless such work is within the paved portions of the street right-of-way in which case the permit shall be obtained from the office of the city engineer and the street shall be repaired in accordance with such instructions and specifications as provided by him. (1975 Code, § 4-417)

CHAPTER 5

HOUSING CODE, SLUM CLEARANCE AND REDEVELOPMENT

SECTION

12-501. Definitions.
12-502. Occupancy or rental of premises unfit for human habitation.
12-503. Responsibility for extermination of pests.
12-504. Each dwelling to have tub or shower.
12-505. Each dwelling and building to have flush water closet and lavatory basin.
12-506. When plumbing facilities may be shared.
12-507. Each dwelling to have kitchen sink.
12-508. Hot and cold water required.
12-509. Unobstructed means of egress required.
12-510. Windows and skylights for habitable rooms.
12-511. Dwellings to have heating facilities.
12-512. Electrical outlets and lights.
12-513. Screens.
12-514. Dwellings and buildings to be weathertight.
12-515. Sleeping room floor area requirements.
12-516. Floor space requirements for dwellings.
12-517. Use of cellar or basement as habitable room.
12-518. Defects making dwellings unfit for human habitation and dangerous buildings.
12-519. Minimum facilities required.
12-520. When unfit dwellings and dangerous buildings to be repaired or demolished.
12-521. Abatement of nuisances; inspector's duties.
12-522. Abatement of nuisances; board's duties.
12-523. Emergency abatement of nuisances.
12-524. Notices and orders; powers of city manager.
12-525. Occupant to keep premises clean; owner to paint.
12-526. Remedies provided herein are cumulative.
12-527. Violations.

12-501. Definitions. The following terms whenever used or referred to in this chapter shall have the following respective meanings, unless a different meaning clearly appears from the context:

(1) "City." Shall mean the City of Red Bank, Tennessee.

(2) "Board." Shall mean the board of commissioners of the City of Red Bank, Tennessee.

(3) "Inspector." Shall mean the city manager of the City of Red Bank, or such person designated by him to carry out the duties imposed upon the building inspector herein.

(4) "Owner." Shall mean the holder of a fee simple title and every trustee or mortgagee of record.

(5) "Parties in interest." Shall mean all individuals, associations and corporations who have an interest of record in a dwelling or building or who are in possession thereof.

(6) "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.

(7) "Building." Shall mean any structure or part thereof not a dwelling as above defined.

(8) "Structural alterations." Shall mean any change, except for repair or replacement, in the supporting members of a building, such as bearing walls, columns, beams or girders.

(9) "Public record." Shall mean deeds, deeds of trust, and other instruments of record in the register's office of Hamilton County, Tennessee.

(10) "Demolish." To throw or pull down, to raze, to destroy to pull to pieces and, in the case of a house or building which is to be demolished shall include the responsibility of the owner thereof to pull down and remove the remaining structural components of the building and return the surface of the ground to the approximate grade as it existed prior to construction. In the instance of a building with an excavated basement or foundation, as it exists below grade level, shall be filled, and covered with earth and, as the same shall exist above grade level, shall be pulled down and hauled away or buried on the site so that the ground surface is returned to the approximate grade as it would exist without the structure. (1975 Code, § 4-501)

12-502. Occupancy or rental of premises unfit for human habitation. It shall be unlawful for any owner or party in interest of a dwelling or of a building to knowingly occupy or rent or offer for rent any dwelling or building which is unfit for human habitation due to dilapidation; defects increasing the hazard of fire, accident or other calamity; lack of ventilation, light or sanitary facilities; or, due to other conditions rendering such dwelling or building unsafe or insanitary, or dangerous or detrimental to the health, safety or morals or otherwise inimical to the welfare of the residents of the city.

No owner shall occupy or rent to any other occupant any dwelling unit unless it is clean, sanitary, and fit for human occupancy. (1975 Code, § 4-502)

12-503. Responsibility for extermination of pests. Every occupant of a dwelling containing a single dwelling unit, and every owner and party in interest of a multiple family dwelling unit shall be responsible for the

extermination of any insects, rodents, or other pests therein or on the premises. (1975 Code, § 4-503)

12-504. Each dwelling to have tub or shower. Every dwelling unit shall contain, within a room which affords privacy to a person within said room, a bathtub or shower in good working condition. (1975 Code, § 4-504)

12-505. Each dwelling and building to have flush water closet and lavatory basin. Every dwelling unit and building shall contain a room which affords privacy to a person within said room and which is equipped with a flush water closet a lavatory basin in good working condition. (1975 Code, § 4-505)

12-506. When plumbing facilities may be shared. It shall be permissible for two dwelling units to share the plumbing facilities required by the two preceding sections provided the two dwelling units are occupied by not more than a total of six persons. (1975 Code, § 4-506)

12-507. Each dwelling to have kitchen sink. Every dwelling unit shall contain a kitchen sink connected to a water and sewer system, provided, however, that this section shall not render unlawful connections to an adequate septic tank where such connection existed prior to the adoption of these provisions, or where a sanitary sewer is not available. (1975 Code, § 4-507)

12-508. Hot and cold water required. In every residential dwelling the kitchen sink, lavatory basin, and bathtub or shower shall be connected with both hot and cold water lines and installed in accordance with the requirements and regulations of the plumbing code. (1975 Code, § 4-508)

12-509. Unobstructed means of egress required. Every dwelling unit shall have an unobstructed means of egress leading to an open space at ground level. (1975 Code, § 4-509)

12-510. Windows and skylights for habitable rooms. Every habitable room within a dwelling shall have a total window area, measured between stops, of 10% of the floor area of such room. Where a room contains skylights instead of windows, the skylights shall have an area equal to at least 15% of that total area of each room. For the purposes of this section, windows within three feet of an outside wall shall not be counted. The total of openable window area in every habitable room shall be equal to at least 30% of the window area size or minimum skylight-type window size. (1975 code, § 4-510)

12-511. Dwellings to have heating facilities. Every dwelling unit shall have heating facilities which are properly installed, are maintained in safe and good working condition, and be capable of safely and adequately heating all

habitable rooms, bathrooms, and water closet compartments to a temperature of at least 70°F., at a distance of three feet above floor level, at an outside temperature of 5°F. (1975 Code, § 4-511)

12-512. Electrical outlets and lights. When there is electric service available from power lines which are not more than 300 feet from a dwelling, every habitable room of such dwelling shall contain at least two separate wall-type electric convenience outlets, or one such convenience outlet and one ceiling-type electric light fixture; and every water closet compartment, bathroom, laundry room, furnace room and public hall shall contain at least one ceiling or wall-type electric light fixture. Every such outlet and fixture shall be installed in accordance with the electrical code. (1975 Code, § 4-512)

12-513. Screens. Every outside door and window used for ventilating purposes in a dwelling shall be covered by screens with a mesh of such fineness as is ordinarily used in dwelling units to prevent the entrance of flies, mosquitoes, and other similar pests. (1975 Code, § 4-513)

12-514. Dwellings and buildings to be weathertight. The space from the floor sills to the ground level of every dwelling or building shall be enclosed so as to be reasonably weathertight, and every floor, wall, and roof shall be weathertight, capable of affording privacy, and shall be kept in good repair. (1975 Code, § 4-514)

12-515. Sleeping room floor area requirements. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area. Every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age. (1975 Code, § 4-515)

12-516. Floor space requirements for dwellings. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area. (1975 Code, § 4-516)

12-517. Use of cellar or basement as habitable room. No cellar space shall be used as a habitable room or dwelling unit. No basement space shall be used as a habitable room or dwelling unit unless:

(1) The floor and walls are impervious to leakage and are insulated against dampness.

(2) The total window area complies with the minimum requirements set forth in § 12-510.

(3) The required minimum window area of subsection (2) of this section shall be located entirely above the grade of the ground adjoining such window area. (1975 Code, § 4-517)

12-518. Defects making dwellings unfit for human habitation and dangerous buildings. All dwellings or buildings which have any or all of the following defects shall be deemed to be unfit for human habitation or dangerous buildings:

(1) Those whose interior walls or other vertical members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.

(2) Those which, exclusive of the foundation, show thirty-three per cent (33%) or more of damage or deterioration of the support member or members, or fifty per cent (50%) of the damage or deterioration of the non-supporting, enclosing or outside walls or covering.

(3) Those which have improperly distributed loads upon the floor or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(4) Those which have been damaged by fire, wind or other causes so as to become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the city.

(5) Those having less than 600 square feet of floor space.

(6) Those having rooms occupied for sleeping purposes which have less than 70 square feet of floor space and are occupied by a single occupant, or less than 50 square feet of floor space per occupant if occupied by more than one occupant 12 years of age and over, or less than 35 square feet of floor space for each occupant under 12 years of age.

(7) Those having a window area less than that specified by § 12-510 herein, or having a total openable window area less than that specified by said section.

(8) Those having a habitable room less than seven (7) feet high from the floor to ceiling throughout one-half of the area of such room. Any portion of a room having a ceiling height less than five (5) feet high shall not be considered in computing the total floor area for such room.

(9) Those not having an unobstructed means of egress leading to an open space at ground level.

(10) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(11) Any condition or combination of conditions exist, which either collectively or singly, make the building, dwelling or structure dangerous, unfit for human habitation, or injurious to the health, safety or morals of the occupant of the structure, the occupants of neighboring structures and/or other residents of the municipality which may include but are not necessarily limited to defects increasing the hazards of fire, accident or other calamities, lack of adequate

ventilation, light or sanitary facilities, dilapidation, disrepair, structural defects or uncleanliness.

(12) Those dwellings or buildings existing in violation of any provision of this chapter or of any other ordinance of this city at the time such provisions become effective. (1975 Code, § 4-518, as amended by Ord. #99-788, § A, July 1999)

12-519. Minimum facilities required. A dwelling shall be construed by the inspector to be unfit for human habitation or a dangerous building, and he shall so find, if the same does not have minimum facilities consisting of:

(1) Inside running water and an installed kitchen sink in each dwelling unit.

(2) An installed tub or shower and lavatory properly connected to the hot and cold water supply and the sewer system, except where connections to a septic tank are otherwise permitted by this chapter. This tub or shower and lavatory may be shared by two dwelling units if:

(a) It is enclosed in a separate room affording privacy to the occupant.

(b) The habitable area of each such dwelling unit shall equal not more than 200 square feet of floor area.

(c) The fixtures are placed in a room used solely for toilet purposes and are accessible without passing through the other dwelling unit or outside the dwelling.

(3) A flush type water closet located therein in a room affording privacy and properly connected to the water supply and sewer system or, where otherwise permitted by this chapter, a septic tank. This water closet may be shared by two dwellings if subsection (2) above is satisfied.

(4) Installed electric lighting facilities consisting of at least two separate wall-type convenience outlets, or one ceiling-type fixture and one wall-type outlet for every habitable room, to be installed in accordance with the requirements or regulations of the electrical code.

(5) Installed heating equipment capable of safely and adequately heating the dwelling, such equipment to be properly vented and maintained in good order and repair.

(6) Screens to effectively cover all outside openings used for ventilating purposes such as windows, doors, etc., with mesh of such fineness as is ordinarily used in dwelling units to prevent the entrance of flies, mosquitoes, and other similar pests.

(7) No building shall hereafter be constructed or structurally altered without providing inside bathing facilities which shall consist of an installed tub or shower. (1975 Code, § 4-519)

12-520. When unfit dwellings and dangerous buildings to be repaired or demolished. All dwellings unfit for human habitation and all

dangerous buildings within the terms of §§ 12-519 and 12-520 are hereby declared to be public nuisances, and shall be repaired or demolished as hereinbefore and hereinafter provided. The following criteria shall be used by the building inspectors in ordering repair or demolition:

(1) If the dwelling or dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter or other ordinances of this city, it shall be ordered repaired.

(2) In any case where a dwelling unfit for human habitation or a dangerous building is fifty per cent (50%) damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a dwelling or a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases where a dwelling or a dangerous building is a fire hazard existing or erected in violation of the provisions of this chapter or any ordinance of this city or any statute of the State of Tennessee, it shall be demolished. (1975 Code, § 4-520)

12-521. Abatement of nuisances; inspector's duties. (1) The building inspector shall inspect any dwelling, building, wall or structure about which complaints are filed by any person to the effect that it is or may be existing in violation of this chapter.

(2) He shall inspect any dwelling, building, wall or structure reported by the fire or police department or by the department of health or by any other municipal employee or department or by five or more residents of the municipality, as probably existing in violation of the provisions of this chapter.

(3) He shall notify (in writing) the owners, occupants, lessees, mortgagees, agents, and all other persons having any interest, as shown by the public records, in any dwelling or building found by him to be a dwelling unfit for human habitation or a dangerous building within the standards set forth in this chapter, that:

(a) The owner must repair or demolish said dwelling or building in accordance with the terms of the notice and this chapter.

(b) The occupant or lessee must vacate such dwelling or building or must have it repaired in accordance with the notice and this chapter in order to remain in possession.

(c) The mortgagee, agent or other person having an interest in said dwelling or building as shown by the public records, may, at his own risk, repair or demolish said dwelling or building or have such work or act done. However, any person notified under this subsection to repair or demolish any dwelling or building shall be given such reasonable time, not exceeding sixty (60) days, as may be necessary to do, or have done, the work or act required by the notice provided herein.

(4) Failure of any owner, occupant, lessee, mortgagee, agent or other person having an interest in said dwelling or building, to receive a copy of the inspector's notice if mailed, or failure of the city or the inspector to notify any

owner, occupant, lessee, mortgagee, agent, or other person having an interest in said dwelling or building, shall not relieve the remaining persons who are actually notified in accordance with this subsection of their responsibilities hereunder.

(5) The building inspector shall set forth in the notice provided for in subsection (3) hereof, a description of the dwelling or building deemed unsafe, a statement of the particulars which make the dwelling unfit for human habitation or the building a dangerous building, and an order requiring the same to be put in such condition as to comply with the terms of this chapter within such length of time, not exceeding sixty (60) days, as is reasonable.

(6) The building inspector shall report to the city manager any noncompliance with the notice provided for in this section. The manager shall in turn report his findings and recommendations to the board.

(7) The building inspector shall appear at all hearings conducted by the board and testify as to the condition of the dwellings unfit for human habitation and the dangerous buildings.

(8) He shall place a notice on all dwellings unfit for human habitation and on all dangerous buildings as follows:

"This building has been found to be unfit for human habitation and a dangerous building by the inspector. This notice is to remain on this building until it is repaired or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee or agent of this building. It is unlawful to remove this notice until such notice is complied with." (1975 Code, § 4-521, as amended by Ord. #99-788, § A, July 1999)

12-522. Abatement of nuisances; board's duties. (1) Upon receipt of a report of the city manager, or his designee, as provided for in this section, or upon petition of at least five residents of the municipality, the board shall give written notice in the form of a written complaint to the owner, occupant, mortgagee, lessee, agent, and any other person having an interest in said dwelling or building as shown by the public records, to appear before the board on the date and at the time specified in the complaint and notice, which date shall be not less than ten (10) nor more than thirty (30) days after serving the complaint of notice to show cause why the building or dwelling reported to be unfit for human habitation or a dangerous building should not be repaired or demolished in accordance with the statement of particulars set forth in the inspector's notice as provided in section 12-521. The complaint and the notice shall either be personally served upon owner and other persons or entities having an interest in the building or served by registered mail upon such persons, and shall be posted on the building in a conspicuous manner.

(2) The complaint and the notice shall state, in addition to the date, time and place of the hearing that

(a) The building or structure is unfit for occupation or use and the basis for such charge;

(b) That the owners and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony of the time and place fixed for the hearing with respect to the complaint; and that the rules of evidence prevailing in courts of law or courts of equity shall not be controlling in the hearing to be held before the city commission.

(3) The city commission shall hold a hearing and such testimony and evidence as the inspector, the city and the owner, or other person having or claiming an interest in the property, as shown by the public records, shall offer and as shall be deemed relevant and necessary and appropriate to enable the board to make a determination shall be heard and considered.

(4) The city commission shall make written findings of fact, from the testimony and evidenced offered, as to whether or not the dwelling or building is unfit for human habitation or whether the building in question is a dangerous building within the terms and provisions of this chapter.

(5) The city commission shall thereafter issue an order, based upon its findings of fact, commanding the owner or other person or entity having an interest therein, as shown by the public records, to either repair or demolish such dwelling or building found to be unfit for human habaitation or any building found to be a dangerous building under the terms and provisions of this chapter. Any person or entity so notified shall have the privilege of either repairing the dwelling or building or demolishing it at his, her or its own risk to prevent the acquiring of a lien against the land upon which said dwelling or building stands by the city as provided hereinafter.

(6) If the owner, occupant, mortgagee, lessee, or agent fails to comply with the order provided for in the subsection immediately above within such period of time as the city commission may determine but not, in any event, to exceed sixty days, the city commission shall cause such dwelling or building to be repaired or demolished as the facts may warrant, under the criteria hereinbefore provided. Furthermore, the city commission shall, with the assistance of the city attorney, cause the cost of such repair or demolition to be charged against the land on which the building existed as a municipal lien, which lien shall be superior to all liens except liens for state, county and municipal taxes and municipal special assessments, to be recovered in a suit at law against the owner and/or to be collected, as authorized by statute, in the same manner as property taxes and subject to the same penalties and same provisions for collection of delinquent property taxes if not paid by the owner.

(7) The city commission shall report to the city attorney the names of all persons not complying with the order provided for in this section. (1975 Code, § 4-522, as amended by Ord. #99-788, § A, July 1999)

12-523. <u>Emergency abatement of nuisances</u>. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless a dwelling unfit for human habitation or a dangerous building, as

defined herein, is immediately repaired or demolished the inspector shall report such acts to the board, and the board shall cause the immediate repair or demolition of such dwelling or building. The cost of such emergency repair or emergency demolition of such dwelling or building shall be a lien to be collected in the same manner as provided in § 12-522. (1975 Code, § 4-523)

12-524. Notices and orders, powers of city manager. (1) In cases, except emergency cases, all notices or orders provided for in the past shall be served upon such persons either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained in the exercise of reasonable diligence and the city manager 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, in one printed and published in Hamilton County and circulating in the City of Red Bank. A copy of such compliant or order shall also be posted in a conspicuous place upon the premises effected by the complaint or order. In the absence of personal service or service by registered mail a copy of such complaint or order shall also be filed of record in Hamilton County Register's Office and such filing of complaint or order shall have the same force or effect as such other lis pendens notices provided by law.

(2) The city manager is empowered to exercise all powers necessary and convenient to carry out and effectuate the provisions of this title including, but not limited to:

(a) Investigate conditions in the city in order to determine which structures therein are unfit for human occupation or use;

(b) Along with the city recorder, to administer oaths, affirmations, examine witnesses and receive evidence;

(c) Enter upon premises for the purpose of making examinations, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the person in possession, if any;

(d) Appoint and affix the duties of such officers, agents and employees as the city manager deems necessary to carry out the purposes of this chapter; and

(e) Delegate any of the city manager's functions and powers under the ordinance to such officers and agents as the city manager may designate. (1975 Code, § 4-524, as replaced by Ord. #99-788, § A, July 1999)

12-525. Occupant to keep premises clean; owner to paint. It shall be the duty of the inhabitant of any dwelling or the occupant of any building to keep that portion of the property which he occupies or over which he has exclusive control, clean and free from any accumulation of dirt, filth, rubbish, garbage, or similar matter, and free from rodent or vermin infestation. All

yards, lawns and courts shall be similarly kept clean and free from rodent infestation. If the occupant shall fail to keep his portion of the property clean the inspector shall send a written notice to the occupant to abate such nuisance within the time specified in said notice. Failure of the occupant to comply with such notice shall be deemed a violation of this section, and upon conviction the occupant shall be subject to the penalties provided in the adopting ordinance for this code.

It shall be unlawful for any person wilfully or maliciously to deposit any material in any toilet or bathtub or sink, or other plumbing fixture, which may result in the obstruction of any sanitary sewer. This liability on the part of the occupant shall not relieve the owner of the responsibility of clearing any resultant chokage, but shall subject the occupant to a fine upon proper proof of such willful or malicious act.

It shall be the duty of the owner to keep all buildings painted at reasonable intervals, and no building shall be allowed to become badly in need of paint. (1975 Code, § 4-525)

12-526. Remedies provided herein are cumulative. Nothing in this chapter shall be construed to impair or limit, in any way, the power of the city to define and declare nuisances and to cause their removal or abatement by summary proceedings or other use. The measures and procedures herein provided do not supersede, and this chapter does not repeal, any other measures or procedures which are provided by the ordinances of the city for the elimination, repair or correction of the conditions referred to in this chapter, but the measures and procedures herein provided for shall be in addition to all other powers and authority of the city or its inspector. (1975 Code, § 4-526)

12-527. Violations. Any person, firm or corporation, whether owner, occupant, lessee or mortgagee, violating or failing to comply with any provision of this chapter or any notice or order issued pursuant to its provisions shall be deemed guilty of a misdemeanor, punishable by a fine under the general penalty clause for this code. (1975 Code, § 4-527)

CHAPTER 5A

UNSAFE BUILDING ABATEMENT CODE

SECTION

12-5A01. Standard unsafe building abatement code adopted.
12-5A02. Modifications.
12-5A03. Available in manager's office.
12-5A04. Violation and penalty.
12-5A05. Municipal lien declared.

12-5A01. Standard unsafe building abatement code adopted. Pursuant to the authority granted by Tennessee Code Annotated, § 6-54-501 through § 5-54-506 and for the purposes of providing a comprehensive set of standards and procedures to effectuate the rehabilitation and/or elmination of unsafe buildings in a legal and timely manner, the Standard Unsafe Bulding Abatement Code, 1985 edition, as amended, promulgated and published by the Southern Building Code Congress International, Inc., is hereby adopted and incorporated by reference as an ordinance of this city, and as a part of this municipal code, the same to be codified at title 12, chapter 5A, sections 01, et seq. of the Red Bank Municipal Code. (as added by Ord. #97-760, part one, modified, Jan. 1998)

12-5A02. Modifications. Whenever the Standard Unsafe Building Abatement Code refers to the "building official," it shall be deemed to reference the city manager and/or the codes enforcement officer and/or his or their authorized designee; whenever the Standard Unsafe Building Abatement Code refers to the "board of adjustments and appeals," it shall be deemed a reference to the City Commission of the City of Red Bank, Tennessee, and the terms of office of those individuals shall be deemed to be coincident with the respective terms of office of the members of the city commission. (as added by Ord. #97-760, part one, modified, Jan. 1998)

12-5A03. Available in manager's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the Standard Unsafe Building Abatement Code has been placed and shall be kept on file in the city manager's office and it shall be kept there for the use and inspection of the public. (as added by Ord. #97-760, part one, modified, Jan. 1998)

12-5A04. Violation and penalty. It shall be a civil offense for any person to violate or fail to comply with any provision of the Standard Unsafe Building Abatement 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

$500.00 for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #97-760, part one, modified, Jan. 1998)

12-5A05. Municipal lien declared. Whenever it shall be necessary, in the enforcement of the terms and provisions of this Standard Unsafe Building Abatement Code for the city to expend monies and/or manpower in the enforcement of the provisions hereof and/or of the rulings of the board of adjustment and appeals (n.e. the Red Bank City Commission) there is hereby, pursuant to statute, declared to be and to exist a municipal lien for the enforcement and collection of the costs thereof, the same being a lien against the real property at issue and to have precedents over all other liens with the exception of that lien for the collection of ad valorem taxes, the same to be enforceable as any other municipal lien. (as added by Ord. #97-760, part one, modified, Jan. 1998)

CHAPTER 6

ENERGY CONSERVATION CODE[1]

SECTION

12-601. Energy conservation code adopted.
12-602. Modifications.
12-603. Available in manager's office.
12-604. Violations and penalty.

12-601. Energy conservation 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 International Energy Conservation Code,[2] 2009 edition, is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the energy code. (as amended by Ord. #11-965, Aug. 2011, and Ord. #16-1069, Oct. 2016)

12-602. Modifications. Whenever the energy code refers to the "responsible government agency," it shall be deemed to be a reference to the City of Red Bank. When the "building official" is named it shall, for the purposes of the energy code, mean such person as the city manager shall have appointed or designated to administer and enforce the provisions of the energy code.

12-603. Available in manager's office. Pursuant to the requirements of the Tennessee Code Annotated, § 6-54-502, one (1) copy of the energy code has been placed on file in the city manager's office and shall be kept there for the use and inspection of the public.

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[1]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.

[2]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-604. Violations 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.

CHAPTER 7

SWIMMING POOL CODE

SECTION

12-701. Reserved.
12-702. Modifications.
12-703. Application to existing pools.
12-704. Violations.
12-705. Fees.

12-701. Reserved. The Red Bank City Code title 12, chapter 1, § 12-101(2); the Swimming Pool Code is now a part of the International Residential Code, 2012 edition. (1975 Code, § 4-701, as replaced by Ord. #97-739, June 1997, Ord. #04-897, Jan. 2005, Ord. #11-965, Aug. 2011, and Ord. #16-1069, Oct. 2016)

12-702. Modifications. Whenever the code refers to the "Administrative Authority," it shall be deemed to be a reference to the city manager of the City of Red Bank, Tennessee or his designee. (1975 Code, § 4-702)

12-703. Application to existing pools. Any existing pool failing to meet the requirements of § 315 of the code with regard to enclosure, shall be brought into compliance prior to the effective date of this ordinance,[1] provided, however, that existing pools with an approved wall, fence, or other substantial structure, at least forty-eight (48) inches in height, shall be deemed to be in compliance with this ordinance. (1975 Code, § 4-703)

12-704. Violations. Any person, firm or corporation who shall violate a provision of the swimming pool code, or fail to comply therewith, or with any of the requirements thereof, shall be subject to a fine of not more than $50.00. Such persons shall be deemed to be guilty of a separate offense for each and every day or portion thereof, during which any violation of any provisions of this Code is committed or continued, and, upon conviction of any such violation, shall be punished as herein set forth. (1975 Code, § 4-704)

12-705. Fees. For the examination of an application for any construction, installation, reinstallation, alteration, repair, filling, or demolition covered by this chapter and the swimming pool code, the city shall collect, at the

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[1]This ordinance was effective, according to its express provision (§ 6), on April 1, 1981.

time of the issuing of such permit and prior to the construction, alteration, etc. for the use of the city, fees, as follows:

(1) Private pools at a single family residence, $50.00;
(2) All other swimming pools, $50.00;
(3) Pool filling system, including back flow prevention, each, $5.00;
(4) Each water heater and/or vent, $5.00;
(5) Gas piping system, each, $5.00;
(6) Replacing of filter, $5.00;
(7) Replacing of piping, $5.00;
(8) Miscellaneous replacements, $5.00;
(9) Backwash receptor, $5.00. (as added by Ord. #97-739, June 1997, and replaced by Ord. #04-897, Jan. 2005)

CHAPTER 8

LIFE SAFETY CODE[1]

SECTION

12-801. Life safety code.
12-802. Enforcement.

12-801. Life safety code. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, for the purpose of prescribing regulations relating to fire safety, the "Life Safety Code,"[2] National Fire Protection Association Publication 101, 2012 edition, together with all amendments and appendices, approved and adopted and published by the National Fire Protection Association, but expressly excluding section 24.3.5.1, is hereby adopted as the official life safety code of the City of Red Bank by incorporating the same herein by reference. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-5021 (1) a copy of said life safety code has been filed with the city manager, and is available for public use and inspection. Said life safety code is hereby adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (1975 Code, § 7-204, as replaced by Ord. #97-739, June 1997, Ord. #04-897, Jan. 2005, Ord. #11-965, Aug. 2011, and Ord. #16-1069, Oct. 2016)

12-802. Enforcement. The life safety code herein adopted by reference shall be enforced by the chief of the fire department and the fire marshal. They shall have the same powers as the state fire marshal. (1975 Code, § 7-202, modified)

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[1]Municipal code reference
Fire code: title 7.

[2]Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

CHAPTER 9

MISCELLANEOUS SUPPLEMENTARY PROVISIONS

SECTION

12-901. Construction along Stringers Branch.
12-902. Building permits, exceptions.
12-903. Tie-down, skirting, landing and porch requirements of manufactured homes.

12-901. Construction along Stringers Branch. Construction of any kind, whether of wall, buildings, or of any other nature, along Stringers Branch shall be governed by the following provisions:

(1) No construction shall be commenced along Stringers Branch without a permit first obtained from the city manager.

(2) Before commencing such construction, the owner or contractor shall submit to the city manager detailed plans and drawings of the proposed construction, including detailed specifications of materials and constructions intended to be used and employed therein.

(3) Upon receipt of such plans and specifications, the city manager shall review same, inspect the site of the proposed construction, and shall prepare a written statement of his findings and conclusions with regard to said proposed construction. The city manager shall amend the specifications whenever in his discretion such amendment is necessary to maintain the channel capacity at the site of the proposed construction or when such amendment is necessary to adequately protect the channel. The city manager may specify materials to be used, the depth and manner of construction of footings, the heights and size and manner of construction of walls, the type and kind of reinforcing steel required, the manner and materials to be employed in flooring the channel or in covering the channel, and the location of the walls, together with any other additional requirements which the city manager may deem necessary.

(4) The permit shall be prepared in duplicate and to each copy thereof shall be attached a copy of the statement of the city manager, together with the additional specifications and requirements specified by him. The original of said permit with attachments shall be delivered to the owner or contractor and the copy of said permit with attachments shall be filed with the permanent records of the city.

(5) Any construction commenced or completed which is made without first obtaining a permit or which fails to meet the specifications and requirements set forth by the city manager shall be deemed to be, and is hereby declared to be a nuisance and shall be removed or reconstructed so as to meet the requirements of this chapter and the requirements of the city manager adopted hereunder. In the event the owner fails or refuses to abate said

nuisance, the city may take such legal proceedings as are authorized by law for the abatement of nuisances.

(6) Any person who deems himself aggrieved by any order or requirement of the city manager may, by notice to the mayor, appeal said order to the board of commissioners at any time within thirty (30) days after said order or requirement. Appeals will be heard by the commission at the first meeting held at least seven (7) days after receipt by the mayor of said notice. Decisions of the board of commissioners on appeals shall be final. (1975 Code, § 4-601)

12-902. Building permits, exceptions. Notwithstanding any provisions in the Red Bank Municipal Code, in general, or the provisions contained in Title 12, Chapter 9, in particular, to the contrary, there shall be no requirement for any building permit to be obtained in the following instances:

(1) Residential alterations, repairs, and/or additions including window replacements, floor covering replacements or repairs, roofing replacements or repairs, siding and/or painting when the total cost of the improvements shall be $2,000.00 or less.

(2) Residential driveway construction in any amount. (as added by Ord. #97-761, part 1, Jan. 1998)

12-903.[1] **Tie-down, skirting, landing and porch requirements of manufactured homes**. The following requirements set forth in this code section shall apply to all new and used manufactured homes installed within the City of Red Bank following the effective date of this section:[2]

(1) No manufactured home may be installed on any lot or in any mobile home park in the City of Red Bank unless it complies with all provisions of the National Manufactured Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.); the Uniform Standards Code for Manufactured Homes and Recreational Vehicles as set forth at Tennessee Code Annotated, § 68-126-201, et seq.; the Tennessee Modular Building Act, at Tennessee Code Annotated, § 68-126-301; the Tennessee Manufactured Home Anchoring Act, at Tennessee Code Annotated, § 60-126-401; and such other provisions of the Red Bank City Code as may be applicable to minimum housing standards.

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[1]Ord. #98-776 (Nov. 1998) added these provisions to the Red Bank Municipal Code as section 12-902. However, since section 12-902 already existed, these provisions were added as section 12-903.

[2]These provisions were taken from Ordinance Number 98-776, which passed third and final reading November 3, 1998.

(2) For purposes of this code, a "manufactured home" shall be defined as a structure, transportable in one or more sections, which is eight body feet (2.4 meters) or more in width and is thirty-two (32) body feet (9.75 meters) or more in length and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, and connected to the required utilities, and includes plumbing, heating and/or air conditioning, and electrical systems contained therein.

(3) All manufactured home units are required to bear the label or seal of compliance with Federal Manufactured Home Construction and Safety Standards issued by an agency approved by the Secretary of the Department of Housing and Urban Development and a certificate, seal or other evidence of compliance with state uniform standards for manufactured homes required by Tennessee Code Annotated, § 68-126-207.

(4) All manufactured homes are required to have diagonal ties to restrict the unit from being pushed from its piers. These diagonal ties are required to be installed to restrict overturning. Additional over-the-top tie downs to restrict overturning may also be required by some manufactured home installation instructions.

(a) Piers or load-bearing supports of devices shall be designed and constructed to evenly distribute the loads. Piers shall be securely attached to the frame of the manufactured home or shall extend at least six (6) inches (152 mm) from the centerline of the frame member. Manufactured load-bearing supports or devices shall be listed or approved for the use intended, or piers shall be constructed as follows:

(i) Except for corner piers less than forty (40) inches (1016 mm) high shall be constructed of masonry units, placed with cores or cells vertically. Piers shall be installed with their long dimensions perpendicular to the main (I-beam) frame member for supports and shall have a minimum cross-sectional area of 119 square inches (0.077) m squared). Piers shall be capped with a minimum 2-inch (51 mm) solid masonry unit or concrete cap, or equivalent.

(ii) Piers between 40 and 80 inches (1016 and 2032 mm) high and all corner piers over 24 inches (610 mm) shall be at least 16 X 16 inches (406 X 406 mm) consisting of interlocking masonry units and shall be fully capped with a minimum 4-inch (102 mm) solid masonry unit or equivalent.

(iii) Piers over 80 inches (2032 mm) high shall be constructed in accordance with the provisions of paragraph ii above, provided the piers shall be filled solid with grout and reinforced with four continuous No. 5 bars. One bar shall be placed in each corner cell of hollow masonry unit piers, or in each corner of the grouted space of piers constructed of solid masonry units.

(iv) Cast-in-place concrete piers meeting the same size and height limitations of paragraphs i, ii and iii above may be substituted for piers constructed of masonry units.

(v) All piers shall be constructed on footings of solid concrete not less than 16 inches wide by 8 inches in thickness (16" x 8") and continuous between all piers installed perpendicular to the main (I-beam) frame members.

(5) Piers shall be located in accordance with the manufactured home installation instructions. If the manufactured home installation instructions are not available for a used home, piers for single section homes are to be placed under each longitudinal main frame member not to exceed 8 feet (2438 mm) on-center for homes that are not over 14 feet (4267 mm) wide or less than 6 ft (1829 mm) on center for homes that are not over 14 ft (4267 mm) wide. Piers for multi-section homes are to be placed under each longitudinal main frame member not to exceed 6 feet (1829 mm) on-center spacing. For used multi-section homes, piers are to be placed under the center marriage line within one foot at each end, under ridge beam support columns, and under both sides of openings at the marriage line greater than 12 feet (3657 mm). For all homes, exterior doors shall have piers directly under both sides of the door openings. Where practical for all homes, end piers shall be placed within 1 foot (305 mm) of the ends of the main frame. When the location and spacing of wheels and axles or other structural members of home frames or undercarriages prevent spacing of piers of 8 or 6 feet (2438 or 1829 mm) centers, the spacing shall be as near 8 or 6 ft (2438 or 1829 mm) maximum spacing as practicable in the area of the obstruction. Piers shall be placed under other concentrated loads such as porch posts, bay window overhangs, and masonry-faced fireplaces on floor overhangs. Units that exceed 16 feet (4877 mm) in width shall have perimeter piers under the sidewalls every 6 feet (1829 mm) at each corner. Perimeter piers shall be under the intersection of a perimeter joist and a transverse joist or shall be under a 4X4-inch (102x102 mm) brace that supports at least two floor joists.

(6) The City of Red Bank further adopts by reference all manufactured home tie down standards set forth in Appendix H to the 1994 Standard Building Code (as amended) set forth at Sections H105.1, H105.2, H105.3, H105.4, H105.5, H106 and all subsections set forth therein, except where such provisions are contrary to the provisions of this section. Such provisions are incorporated by reference and shall be inspected by the building inspector.

(7) All manufactured homes installed after the effective date of this section shall be required to have masonry skirting covering all open space between the ground and the exterior wall on the perimeter of the manufactured home, not less than four (4) inches wide or in such other width as may be required by the Standard Building Code based upon the heights and widths of the masonry skirting. All masonry skirting shall be constructed on footings of poured in place concrete not less than 16 inches wide by 4 inches in thickness

(16"X4") or as otherwise required by the Standard Building Code based upon the heighth and width of the masonry skirting.

(8) All manufactured homes, expecting those located in an approved or grandfathered mobile home park, shall further be required to be situated on any lot so that the front entrance to the manufactured home shall be required to designate the front entrance to the Building Official before any installation may be approved.

(9) All manufactured homes shall further be required to have a minimum landing at every entrance of at least 4 feet by 4 feet (4' X 4'), with a covered porch over the front entrance. All landings shall be constructed and approved by the Building Official in accordance with all standards set forth in the 1994 Standard Building Code (as amended). The covered porch over the front entrance shall be constructed with a roof line of at least the same pitch as the remainder of the manufactured home.

(10) Nothing contained in this section shall be construed in any manner to repeal, partially repeal, or modify any zoning of land use ordinance of the City of Red Bank with respect to the location of manufactured housing or be deemed in any fashion to effect, nullify or render unenforceable any private restrictive covenant imposed upon any property in this city.

(11) Should any court of competent jurisdiction declare any section, clause, or provision of this section to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this section. (as added by Ord. #98-776, § 1, Nov. 1998, and amended by Ord. #02-858, Sept. 2002)

CHAPTER 10

MECHANICAL CODE

SECTION

12-1001. Mechanical code adopted.
12-1002. Permit fees.
12-1003. To whom permits may issue.
12-1004. Modifications.
12-1005. Inspections.
12-1006. Violations and penalties.

12-1001. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations as a comprehensive regulatory document to guide decisions and protecting the public's health, life, safety and welfare in the environment. The International Mechanical Code,[1] 2012 edition, including Appendix A but excluding Appendix B is hereby specifically adopted as part of the official mechanical code of the city, is hereby adopted and incorporated by reference as a part of this code and is hereafter referred to as the mechanical code. (as added by Ord. #97-739, June 1997, replaced by Ord. #04-897, Jan. 2005, and amended by Ord. #11-965, Aug. 2011, and Ord. #16-1069, Oct. 2016)

12-1002. Permit fees. (1) For issuing each permit, $50.00

(2) Additional fees:

(1) Fee for inspecting heating, ventilating, ductwork, air conditioning and refrigeration systems shall be $50.00 for the first $1,000, or fraction thereof, of valuation of the installation plus $5.00 for each additional $1,000 or fraction thereof.

(2) Fee for inspecting repairs, alterations and additions to an existing system shall be $50.00 plus $5.00 for each $1,000 or fraction thereof.

(3) Fee for inspecting boilers (based upon Btu input):

33,000 Btu (1 BHp) to 165,000 (5 BHp)	$ 50.00
165,001 Btu (5 BHp) to 330,000 (10 BHp)	75.00
330,001 Btu (10 BHp) to 1,165,000 (52 BHp)	100.00
1,165,001 Btu (52 BHp) to 3,300,000 (98 BHp)	125.00
over 3,300,000 Btu (98 BHp)	150.00

[1]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(3) Fee for re-inspection: In case it becomes necessary to make a re-inspection of a heating, ventilation, air conditioning or refrigeration system, or boiler installation, the installer of such equipment shall pay a re-inspection fee of $50.00.

(4) Temporary operation inspection fee: When preliminary inspection is requested for purposes of permitting temporary operation of heating, ventilating, refrigeration, or air conditioning system, or portion thereof, a fee of $50.00 shall be paid by the contractor requesting such preliminary inspection. If the system is not approved for temporary operation on the first preliminary inspection, the usual re-inspection fee shall be charged for each subsequent preliminary inspection for such purpose.

(5) Self-contained units less than two tons: In all buildings, except one- and two-family dwellings, where self-contained air conditioning units of less than two tons are to be installed, the fee charged shall be that for the total cost of all units combined (see (2) above for rate). (as added by Ord. #97-739, June 1997, and replaced by Ord. #04-897, Jan. 2005)

12-1003. <u>To whom permits may issue</u>. The city will require building contractors, electricians, plumbers and mechanical contractors to be licensed by the State of Tennessee, Hamilton County, and/or the City of Chattanooga to perform related work as permitted by the city. Building, electrical, plumbing and mechanical permits will require purchase by a licensed contractor.

Any property owner desiring to perform work on his or her own property, which may require such a license, may obtain a limited building permit upon such conditions established by the city building inspector and shall not make more than one application for the construction of a single-family residence within a period of twenty-four (24) months. A permit for the plumbing, electrical and mechanical work in a single-family residence, outbuilding or garage must be obtained by a licensed contractor.

Structures not requiring design by a registered architect or engineer:

(1) Business, "factory-industrial," "hazardous," "mercantile," "residential" and "storage" occupancies, as defined in the 2003 edition of the ICC Code, which are:

(1) Less than three (3) stories in height; and

(2) Less than five thousand square feet (5,000 sq. ft.) in total gross area

(2) One-family and two-family dwellings and domestic outbuilding appurtenant thereto; or

(3) Farm buildings not designed or intended for human occupancy.

Nothing in this section shall prevent the city from requiring the services of a registered architect, engineer or landscape architect for any project. (as added by Ord. #97-739, June 1997, and replaced by Ord. #04-897, Jan 2005)

12-1004. Modifications. Whenever the code refers to the "Administrative Authority" it shall be deemed to be a reference to the City Manager of the City of Red Bank, Tennessee, or his designee, including but not limited to the codes enforcement officer and/or a designee of the Hamilton County Government. (as added by Ord. #97-739, June 1997, and replaced by Ord. #04-987, Jan. 2005)

12-1005. Inspections. The codes enforcement officer for the city or other designee of the city manager, including but not limited to an appropriately qualified department of the Hamilton County government shall be designed to perform inspection duties and activities for the City of Red Bank under the provisions of this chapter. Such inspector is authorized, empowered and directed to regulate and determine compliance with the provisions of this code and shall cause all such activities and installations as are governed by this code to be so placed, constructed, and guarded so as to be in compliance with the code. Whenever in the judgement of said inspector any activities or installations shall be defective by reason of failure to comply with this code, or for any other cause, the said inspector shall at once cause the immediate removal of such defect and shall be specifically authorized to enter any building, structure, etc. at any reasonable hour (between 8 A.M. and 6 P.M.) Or at any hour or time in case of an emergency in the discharge of his or their official duty or for the purpose of making any tests of the installation or activity therein contained as is governed by this code. Further, said inspector, upon finding any defective or unsafe condition shall be empowered, authorized and directed to revoke all such certificates or permits in effect at that time relating to such system, installation or activity and the use thereof shall be discontinued until it has been made to conform to the provisions of this chapter and the rules and regulations of this code. Further, no alteration, change or activity conducted as is covered by the code shall be accomplished or conducted without first securing the permit as above described and a copy of such permit shall be displayed in a conspicuous place at the job site at all times from the time of issuance until the final inspection. (as added by Ord. #97-739, June 1997, and replaced by Ord. #04-897, Jan. 2005)

12-1006. Violations and penalties. Any person, firm, corporation or agent who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued, and

upon conviction of any such violation such person shall be punished within the limits as provided by state laws. (as added by Ord. #97-739, June 1997, and replaced by Ord. #04-897, Jan. 2005)

CHAPTER 11

HANDICAPPED ACCESSIBILITY BUILDING CODE

SECTION

12-1101. Handicapped accessibility building code adopted.

12-1101. Handicapped accessibility building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506 and for the purpose of regulating the construction, repair, installation, including alterations and repairs of equipment, appliances, fixtures, and appurtenances thereto, within or without the municipality, the ICC/ANSI A 117.1, Accessible and Usable Buildings and Facilities,[1] 2009 edition, together with all rules and regulations now or hereafter adopted by the Tennessee Department of Commerce and Insurance with respect thereto, is hereby adopted and incorporated by reference as a part of this code and is hereafter referred to as "the handicapped accessibility building code." (as added by Ord. #97-739, June 1997, and replaced by Ord. #04-897, Jan. 2005, and Ord. #11-965, Aug. 2011)

[1]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 12

TRAILERS AND MOBILE HOMES

SECTION

12-1201. Definitions.
12-1202. Location outside of trailer park or mobile home park.
12-1203. Unoccupied trailer houses for demonstration, etc.
12-1204. Inspections.
12-1205. Notices, hearings and orders.
12-1206. Adoption of regulations by city manager.
12-1207. Penalty for violation of chapter.
12-1208. Responsibilities of park management.
12-1209. Restrictions on occupancy.
12-1210. Permits.
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12-1212. General requirements.
12-1213. Soil and ground cover.
12-1214. Site drainage.
12-1215. Use of park areas for nonresidential purposes.
12-1216. Required separation between mobile homes.
12-1217. Setbacks from public street, park street and common areas.
12-1218. Recreation areas.
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12-1221. Walks.
12-1222. Mobile home stand requirements.
12-1223. General requirements.
12-1224. Storage facilities.
12-1225. Distribution system.
12-1226. Individual water service connections.
12-1227. General requirements.
12-1228. Sewer lines.
12-1229. Individual sewer connections.
12-1230. Sink wastes.
12-1231. General requirements.
12-1232. Power distribution lines.
12-1233. Individual electrical connections.
12-1234. Grounding of all exposed noncurrent metal parts.
12-1235. Generally.
12-1236. Emergency sanitary facilities for mobile home parks.
12-1237. Structural requirements, illumination levels, etc., for buildings.
12-1238. Provisions regarding barbeque pits, fireplaces, etc.
12-1239. Generally.

12-1240. Natural gas systems.
12-1241. Liquefied petroleum gas system.
12-1242. Fuel oil supply systems.
12-1243. Generally.

12-1201. Definitions. For purposes of this chapter, the following words and phrases shall have the meanings respectively as described to them by this section:

(1) Camper trailer or travel trailer." A transportable enclosed unit or vehicle designed to be towed behind a truck or automobile and/or designed to be utilized primarily for recreational or temporary purposes; having generally dimensions of less than ten (10') feet in width and forty (40') feet in length and/or which has features which allow for quick set up, disconnection, removal and transport.

(2) "City manager." The city manager or his designee, also referred to herein as "city engineer."

(3) "Dependent trailer." A trailer that is dependent upon a service building for toilet and lavatory facilities.

(4) "License." A written license issued by the city clerk allowing a person to operate and maintain a mobile home park or travel trailer park under the provisions of this chapter and regulations issued hereunder.

(5) "Mobile home." A transportable dwelling unit suitable for year-round occupancy and containing the same water supply, waste disposal and electrical conveniences as immobile housing, sometimes commonly referred to as a "single-wide mobile home," and which shall have dimensions of at least ten (10') feet by fifty (50') feet.

(6) "Mobile home lot." A parcel of land for the placement of a single mobile home and the exclusive use of its occupants, being at least forty feet by eighty feet in dimension.

(7) "Mobile home park." A parcel of land which has been planned and improved for the placement of mobile homes for nontransient use.

(8) "Mobile home stand." That part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

(9) "Motor home." See Recreational vehicle.

(10) "Permit." A written permit issued by the city clerk permitting the construction, alteration and extension of a mobile home park under the provisions of this chapter and regulations issued hereunder.

(11) "Person." Any individual, firm, trust, partnership, public or private association or corporation.

(12) "Recreational vehicle" or "motor home." A self-propelled bus, trailer and/or other vehicle, sometimes referred to as a motor home, which may possess characteristics similar to either a mobile home and/or a travel trailer

and which is capable for use for human occupancy on a temporary or permanent basis.

(13) "Sanitary station." A facility used for removing and disposing of wastes from trailer hold tanks.

(14) "Self-contained trailer." A trailer which can operate independent of connections to sewer, water and electrical systems. It contains a water-flushed toilet, lavatory, shower and kitchen sink, all of which are connected to water storage and sewage holding tanks located within the trailer.

(15) "Service building." A structure housing toilet, lavatory and such facility as may be required by this chapter.

(16) "Sewer connection." The connection consisting of all pipes, fittings and appurtenances from the drain outlet of the mobile home or travel trailer to the inlet of the corresponding sewer riser pipe of the sewage system serving the mobile home park or travel trailer parking area.

(17) "Sewer riser pipe." That portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home or travel trailer space.

(18) "Trailer stand." That part of an individual space, which has been reserved for the placement of a single trailer and its accessory structures.

(19) "Travel trailer or camper trailer." A transportable enclosed unit or vehicle designed to be towed behind a truck or automobile and/or designed to be utilized primarily for recreational or temporary purposes; having generally dimensions of less than ten (10') feet in width and forty (40') feet in length and/or which have features which allow for quick disconnection and removal and transport.

(20) "Water connection." The connection consisting of all pipes, fitting and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the mobile home or trailer.

(21) "Water riser pipe." That portion of the water supply system serving the mobile home park or travel trailer parking areas which extends vertically to the ground elevation and terminates at a designated point at each mobile home lot or each trailer space.

(22) "Watering station." A facility for supplying water storage tanks of trailers with potable water. (as added by Ord. #00-814, June 2000)

12-1202. <u>Location outside of trailer park or mobile home park</u>.

(1) It shall be unlawful, within the limits of the city, for any reason to park any trailer or mobilehome on any street, alley or highway, or other public place, or on any tract of land owned by a person, occupied or unoccupied, within the city, except in a mobile home park or travel trailer park and as provided by this chapter; provided, however, that this provision shall not apply to any trailer used by the owner for recreational purposes only and not occupied or used for any purpose, including temporary recreational use, while so parked.

(2) Emergency or temporary stopping or parking is permitted on any street, alley or highway for not longer than two hours subject to any other and further prohibitions, regulations or limitations imposed by the traffic and parking regulations or limitations imposed by the traffic and parking regulations or ordinances for that street, alley or highway.

(3) Present unlawful locations at trailer park or mobile home parks of mobile homes are not grandfathered and are subject to the requirements of this section.

(4) It shall be unlawful for any person to occupy, allow to be occupied or to set up so as to be capable of occupancy (whether or not for recreational purposes) and whether temporary, permanent or otherwise, any travel trailer, camper trailer, motor home, or recreational vehicle in the City of Red Bank.

(5) It shall be unlawful for any person to park or store any camper trailer, travel trailer, motor home or recreational vehicle on any city street in the City of Red Bank for more than one (1) hour during any 24-hour period and only then if said vehicle is properly and fully attached to its towing vehicle.

(6) It shall be unlawful for any person to park or store any camper trailer, travel trailer, motor home or recreational vehicle on private property in any residential zone in this city so as to cause all or any part of such travel trailer, camper trailer, motor home or recreational vehicle to be any closer to the curb and/or road right-of-way than that distance between such curb and/or right-of-way and the nearest distance therefrom to any part of the residence or other lawful habitable structure upon such premises or parcel, and in the absence of a structure upon such premises or parcel, the minimum distance from the curb or right-of-way shall be at least thirty (30') feet. (as added by Ord. #00-814, June 2000)

12-1203. Unoccupied trailer houses for demonstration, etc. Unoccupied mobile homes, travel trailers, and/or recreational vehicles for demonstration and sales purposes only may be placed on lots or parcels approved therefore and as provided in the zoning ordinance of the city; provided, that a certificate of occupancy has first been procured from the city manager or his designee to do so; provided, further, that such mobile homes, travel trailers, and/or recreational vehicles are located on such premises in a manner as approved by the city manager. (as added by Ord. #00-814, June 2000)

12-1204. Inspections. (1) The city manager is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this chapter and regulations issued hereunder.

(2) The city manager shall have the power to enter at reasonable times upon any private property for the purpose of inspecting and investigating conditions relating to the enforcement of this chapter and regulations issued hereunder.

(3) The city manager shall have the power to inspect the register containing a record of all residents of the mobile home park.

(4) It shall be the duty of the owners or occupants of mobile home park, or of the person in charge thereof, to give the city engineer free access to such premises at reasonable times for the purpose of inspection.

(5) It shall be the duty of every occupant of a mobile home park to give the owner thereof or his agent or employee access to any part of such mobile home park or its premises at reasonable times for the purpose of making such repairs of alterations as are necessary to effect compliance with this chapter and regulations issued hereunder, or with any lawful order issued pursuant to the provisions of this chapter. (as added by Ord. #00-814, June 2000)

12-1205. Notices, hearings and orders. (1) Whenever the city manager determines that there has been a violation of any provision of this chapter, or regulations issued hereunder, the city manager shall give notice of such alleged violation to the person to whom the permit or license was issued, as hereinafter provided. Such notice shall

(a) Be in writing;

(b) Include a statement of the reasons for its issuance;

(c) Allow a reasonable time for the performance of any act it requires;

(d) Be served upon the owner or his agent when a copy thereof has been sent by registered mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of the state;

(e) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and regulations issued hereunder.

(2) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter, or regulation issued hereunder, may request and shall be granted a hearing on the matter before the city commission; provided, that such person file in the office of the city clerk a written petition requesting such hearings and setting forth a brief statement of the grounds therefor within ten days after the date the notice is served. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension except in the case of an order issued under subsection (5) herein. Upon receipt of such petition, the city clerk shall set a time and place for such hearing and shall give an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than fifteen days after day on which the petition was filed; provided, that upon application of the petitioner the city commission may postpone the date of the hearing for a reasonable time beyond such fifteen-day period when in its judgment the petitioner has submitted good and sufficient reasons for such postponement.

(3) After such hearing the city commission shall make findings as to compliance with the provisions of this chapter and regulations issued hereunder and shall issue an order in writing, sustaining, modifying or withdrawing the notice which shall be served as provided in subsection (1)(d). Upon failure to comply with any order sustaining or modifying a notice, the license of the mobile home park or travel trailer park affected by the order shall be revoked.

(4) The proceedings at such a hearing, including the findings and decision of the city commission and together with a copy of every notice and order related thereto shall be entered as a matter of public record in the office of the city clerk but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought as provided by this section. Any person aggrieved by the decision of the city commission may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this state.

(5) Whenever the city manager finds that an emergency exists which requires immediate action to protect the public health, he may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency including the suspension of the permit or license. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the mayor shall be afforded a hearing as soon as possible. The provisions of subsection (2) and (4) shall be applicable to such hearing and the order issued thereafter. The city commission shall have authority to issue orders of compliance, and upon failure to follow or violation of such order shall have the authority to issue civil penalties of $50.00 per day for each violation, each day constituting a separate violation. (as added by Ord. #00-814, June 2000)

12-1206. <u>Adoption of regulations by city manager</u>. The city manager is hereby authorized to make and, after public hearing and approval of the city commission, to adopt such written regulations as may be necessary for the proper enforcement of the provisions of this chaper. Such regulations shall have the same force and effect as the provisions of this chapter, and the penalty for violation of the provisions therefore shall be the same as the penalty for violation of the provisions of this chapter, as hereinafter provided. (as added by Ord. #00-814, June 2000)

12-1207. <u>Penalty for violation of chapter</u>. In addition or in the alternative to the administrative remedies hereinabove provided, any person who violates any provision of this chapter may be cited to city court and shall, upon viction, be punished by a fine of fifty ($50) dollars; and each day's failure of compliance with any such provision shall constitute a separate violation. (as added by Ord. #00-814, June 2000)

12-1208. Responsibilities of park management. (1) The person to whom a license for a mobile home park is issued shall operate the park in compliance with this chapter and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

(2) The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter and regulations in good repair and in a clean and sanitary condition.

(3) The park management shall supervise the placement of each mobile home on its stand, which includes securing its stability in full compliance with all applicable tie down ordinances, rules, laws and regulations, and installing all utility connections.

(4) The park management shall maintain a register containing a record of all mobile homes and occupants. Such register shall be available to any authorized person inspecting the trailer parking area and shall be preserved for the period required by the health authority. Such register shall contain:

(a) The names and permanent addresses of all mobile home occupants;

(b) The make, model and license number of the mobile home; and

(c) The dates of first occupancy of all residents.

(5) The park management shall notify the health authority immediately of any suspected communicable or contagious disease within the park. (as added by Ord. #00-814, June 2000)

12-1209. Restrictions on occupancy. (1) A mobile home shall not be occupied for dwelling purposes unless it is properly placed on a mobile home stand and properly and lawfully connected, as provided in this chapter, to water, sewage and electrical utilities.

(2) Under no circumstances shall any "travel trailer" or "camper trailer" or any similar type vehicle or device of any "recreational vehicle" be set up or used or occupied as a place of residence, or temporary shelter or abode, or for human occupancy, whether for recreational or any other purpose, within the city limits of the City of Red Bank. (as added by Ord. #00-814, June 2000)

12-1210. Permits. (1) It shall be unlawful for any person to construct, alter or extend any mobile home park within the limits of the city unless such person holds a valid permit issued by the city engineer in the name of such person for the specific construction, alteration or extension proposed.

(2) All applications for permits shall be made to the city engineer and shall contain the following:

(a) Name and address of applicant.

(b) Interest of the applicant in the mobile home park.

(c) Location and legal description of the mobile home park.

(d) Complete engineering plans and specifications of the proposed park showing:

(i) The area and dimensions of the tract of land;

(ii) The number, location and size of all lots;

(iii) The location of service buildings and any other proposed structures;

(iv) The location and width of roadways and walkways;

(v) The location of water and sewer lines and riser pipes;

(vi) Plans and specifications of the water, supply, refuse and sewage disposal facilities;

(vii) Plans and specifications of all buildings constructed or to be constructed within the mobile home park; and

(viii) The location and details of lighting and electrical systems.

(3) All applications shall be accompanied by the deposit of a fee of one hundred dollars for mobile home parks.

(4) When upon review of the application, the city engineer is satisfied that the proposed plan meets the requirements of this chapter and regulations issued hereunder, a permit shall be issued.

(5) Any person whose application for a permit under this chapter has been denied may request and shall be granted a hearing on the matter before the city commission under the procedure provided by section 12-105 of this chapter. (as added by Ord. #00-814, June 2000)

12-1211. Licenses. (1) It shall be unlawful for any person to operate any mobile home park within the limits of the city unless he holds a valid license issued annually by the city clerk in the name of such person for the specific mobile home park. All applications for licenses shall be made to the city clerk who shall issue a license upon compliance by the application with provisions of this chapter and regulations issued hereunder and of other applicable legal requirements, as certified by the city engineer.

(2) Every person holding a license shall give notice in writing to the city clerk within twenty-four hours after having sold, transferred, given away, or otherwise disposed of interest in or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park. Upon application in writing for transfer of the license and deposit of a fee of one hundred dollars ($100.00), the license shall be transferred if the mobile home park is in compliance with all applicable provisions of this chapter and regulations issued hereunder. If the park is not in compliance with all provisions of this chapter, the license shall not be transferred until such park is in compliance.

(3) (a) Application for original licenses shall be in writing, signed by the applicant, accompanied by an affidavit of the application and by

the payment of a license fee of one hundred dollars ($100.00), and shall contain the name and address of the applicant; the location and legal description of the mobile home park; and a site plan of the mobile home park showing all lots, structures, road, walkways and other service facilities.

(b) Applications for renewals of licenses shall be in writing by the holders of the licenses and shall be accompanied by the payment of a fee of one hundred dollars ($100.00) and shall contain any change in the information submitted since the original license was issued or the latest renewal granted.

(4) Any person whose application for a license under this chapter has been denied may request and shall be granted a hearing on the matter before the city commission, under the procedure provided by section 12-105 of this chapter.

(5) Whenever, upon inspection of any mobile home park, the city engineer finds that conditions or practices exist which are in violation of any provision of this chapter or regulations issued hereunder, the city engineer shall give notice in writing in accordance with section 12-105 to the person to whom the license was issued that unless such condition or practices are corrected within a reasonable period of time specified in the notice by the city engineer, the license shall be suspended. At the end of such period, the city engineer shall reinspect such mobile home park and, if such conditions or practices have not been corrected, he shall suspend the license and give notice in writing of such suspension to the person to whom the license is issued. Upon receipt of notice of suspension, such person shall cease operation of such mobile home park, except as may be provided in section 12-105.

(6) Any person whose license has been suspended, or who has received notice from the city engineer, that his license has been suspended unless certain conditions or practices at the mobile home park are corrected, may request and shall be granted a hearing on the matter before the city commission, under the procedure provided by section 12-105 of this chapter; provided, that when no petition for such hearing shall have been filed within ten days following the day on which the notice of suspension was served, such license shall be deemed to have been automatically revoked at the expiration of such ten-day period.

(7) A temporary license, upon written request therefore, shall be issued by the city clerk for every mobile home park in existence upon the effective date of this chapter permitting the mobilehome park to be operated during the period ending one hundred eighty days after the effective date of this chapter in accordance with such conditions as the city may require, and if, at the end of such one hundred eight-day period, the conditions set by the city have been met, then in that event, an annual license shall be issued on payment of required license fee, and renewed annually under the provisions of subsection (3)(b) herein. (as added by Ord. #00-814, June 2000)

12-1212. General requirements. Conditions of soil, ground water level, drainage and topography shall not create hazards to the property or the health and safety of the occupants or other citizens or residents of the City of Red Bank. The site shall not be subject to unpredictable or sudden flooding, subsidence or erosion, which would expose persons or property to hazards. (as added by Ord. #00-814, June 2000)

12-1213. Soil and ground cover. Exposed ground surfaces in all parts of every mobile home park shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust. (as added by Ord. #00-814, June 2000)

12-1214. Site drainage. The ground surface in all parts of every mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner and in accordance with all now existing or hereinafter enacted laws, ordinances, rules and regulations in effect thereon with respect to drainage in general and storm water drainage in particular. (as added by Ord. #00-814, June 2000)

12-1215. Use of park areas for nonresidential purposes. No part of any park shall be used for nonresidential purposes, except such uses that are required for the direct servicing and well being of park residents and for the management and maintenance of the park. (as added by Ord. #00-814, June 2000)

12-1216. Required separation between mobile homes. (1) Mobile homes shall be separated from each other and from other buildings and structures by at least fifteen feet; provided, that mobile homes placed end-to-end may have clearance of twenty feet where opposing rear walls are staggered.

(2) Any accessory structure which has a horizontal area exceeding twenty-five feet is attached to a mobile home or located within ten feet of its window, and has an opaque top or roof that is higher than the nearest window shall, for purposes of all separation requirements, be considered to be part of the mobile home.

(3) All parks existing as of the effective date of this chapter, i.e. June 6, 2000, shall be in full compliance with this provision on or before June 6, 2005. (as added by Ord. #00-814, June 2000)

12-1217. Setbacks from public street, park street and common areas. (1) All mobile homes shall be located at least ten feet from any park property boundary line abutting upon a public street or highway and at least fifteen feet from the other park property boundary lines, except the rear property line.

(2) There shall be a minimum distance of ten feet between an individual mobile home adjoining pavement of a park street, or common parking area or other common areas.

(3) All parks existing as of the effective date of this ordinance, i.e. June 6, 2000, shall be in full compliance with this provision on or before June 6, 2005. (as added by Ord. #00-814, June 2000)

12-1218. Recreation areas. (1) In all parks accommodating or designed to accommodate twenty-five or more mobile homes, there shall be one or more recreation areas which shall be easily accessible to all park residents.

(2) The size of such recreation area shall be based upon a minimum of one hundred square feet for each lot. No outdoor recreation area shall contain less than two thousand five hundred square feet.

(3) Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located. (as added by Ord. #00-814, June 2000)

12-1219. Park street system. (1) General requirements. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. Alignment and gradient shall be properly adapted to topography.

(2) Access. Access to mobile home parks shall be designed to minimize congestion and hazards at the entrance or exit and allow free movement of traffic on adjacent streets. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of thirty-four feet where parking is permitted on both sides, or a minimum road pavement width of twenty-seven feet where parking is limited to one side. Where the primary entrance road is more than one hundred feet long and does not provide access to abutting mobile home lots within such distance, the minimum road pavement width may be twenty-four feet, providing parking is prohibited on both sides.

(3) Internal streets. Surfaced roadways shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

(a) All streets, except minor streets, twenty-four feet.

(b) Minor streets, with no parking, eighteen feet, is acceptable only if less than five hundred feet long and serving less than twenty-five mobile homes or of any length if one-way and providing access to abutting mobile home lots on one side only.

(c) Dead-end streets shall be limited in length to one thousand feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least sixty (60) feet.

(4) Required illumination. All parks shall be furnished with lighting units so spaced and equipped with lighting units so spaced and equipped with

luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night:

(a) All parts of the park street system: 0.6 foot candle, with a minimum of 0.1 footcandle.

(b) Potentially hazardous locations, such as major street intersections and steps or stepped ramps; individually illuminated, with a minimum of 0.3 footcandle.

(5) Street construction and design standards. (a) Pavement. All streets shall be provided with a smooth, hard and dense surface which shall be durable and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Street surfaces shall be maintained free of cracks, holes and other hazards.

(b) Grades. Grades of all streets shall be sufficient to insure adequate surface drainage, but shall be not more than eight percent. Short run with a maximum grade of twelve percent may be permitted, provided traffic safety is assured by appropriate paving, adequate leveling areas and avoidance of lateral curves.

(c) Intersections. Within one hundred feet of an intersection, streets shall be approximately at right angles. A distance of at least one hundred fifty feet shall be maintained between center lines of offset intersecting streets. Intersections of more than two streets at one point shall be avoided. (as added by Ord. #00-814, June 2000)

12-1220. Off-street parking areas. (1) Off-street parking areas shall be provided in all mobile home parks for the use of park occupants where streets are less than thirty-four feet in width. Such areas shall be furnished at the rate of at least 1.25 car spaces for each mobile home lot.

(2) Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of two hundred feet from the mobile home that it is intended to serve. (as added by Ord. #00-814, June 2000)

12-1221. Walks. (1) General requirements. All parks shall be provided with safe, convenient, all season pedestrian access of adequate width for intended use, durable and convenient to maintain; between individual mobile homes, the park streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.

(2) Common walk system. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of two feet.

(3) Individual walks. All mobile home stands shall be connected to common walks, to paved streets, or to paved driveways or parking spaces

connecting to a paved street. Such individual walks shall have a minimum width of two feet. (as added by Ord. #00-814, June 2000)

12-1222. Mobile home stand requirements. The area of the mobile home stand shall be improved to provide an adequate foundation for the placement and tie-down of the mobile home, thereby securing the superstructure against uplift, sliding, rotation, and overturning.

(1) The mobile home stand shall not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.

(2) The mobile home stand shall be provided with anchors and tie-downs such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home.

(3) Each mobile home shall be anchored and tied down in compliance with Red Bank Ordinance No. _____.[1] (as added by Ord. #00-814, June 2000)

12-1223. General requirements. An accessible, adequate, safe and potable supply of water from the public utility serving the area in which the park is located shall be provided, in accordance with all laws, rules, ordinances and regulations of the water supplier, the State of Tennessee, the City of Red Bank, Hamilton County, and/or such public utility as is applicable. (as added by Ord. #00-814, June 2000)

12-1224. Storage facilities. No private water storage reservoirs or facilities allowed. The public water supply shall be the only required source of supply of potable water. (as added by Ord. #00-814, June 2000)

12-1225. Distribution system. (1) The water supply system of the mobile home park parking area shall be connected by pipes to all buildings and other facilities requiring water.

(2) All water piping, fixtures and other equipment shall be constructed and maintained in accordance with state and local regulations and requirements and shall be of a type and in location approved by the health authority and by the water utility.

(3) The water piping system shall not be connected with nonpotable or questionable water supplies and shall be protected against the hazards of backflow or back siphonage.

(4) The system shall be so designed and maintained as to provide a pressure of not less than twenty pounds per square inch, or such prescribed

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[1]These provisions were taken from Ord. #00-814 (June 2000), which had a blank at this point of the ordinance.

provision for single family residences (whether now existing or hereafter enacted), under normal operating conditions, at all mobile homes, trailers and service buildings and other locations. (as added by Ord. #00-814, June 2000)

12-1226. Individual water service connections. The following requirements shall apply:

(1) Riser pipes provided for individual water-service connections shall be so located and constructed that they will not be damaged by the parking of mobile homes or travel trailers.

(2) Water riser pipes shall extend at least four inches above ground elevation. The pipe size shall be three-quarter inch.

(3) Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes.

(4) Underground stop and waste valves shall not be installed on any water service.

(5) Valves shall be provided near the outlet of each water service connection. They should be turned off and the outlets capped or plugged when not in use. (as added by Ord. #00-814, June 2000)

12-1227. General requirements. An adequate and safe sewerage system connected to the City of Red Bank sewer collector system shall be provided in all mobile home parks for conveying and disposing of all sewage. Such system shall be designed, constructed and maintained in accordance with the state and local laws. For billing purposes, each mobile home park shall be treated as though same is a multifamily housing unit and the park shall be assessed and shall pay the sewerage rates in effect from time to time, for the number of approved spaces, whether or not all or any of such spaces shall be occupied from time to time or at any time. (as added by Ord. #00-814, June 2000)

12-1228. Sewer lines. All sewer lines shall be located in trenches of depth prescribed by the city engineer so as to be free of breakage from traffic or other movements and shall be separated from the water supply system at such distance as provided by law. Sewers shall be at grade which will insure a velocity of two feet per second when flowing fall. All sewer lines shall be constructed of materials approved and prescribed by the city, shall be adequately vented and shall have watertight joints. All materials shall be as prescribed in the city's sewer use ordinance. (as added by Ord. #00-814, June 2000)

12-1229. Individual sewer connections. If facilities for individual sewer connections are provided, the following requirements shall apply:

(1) The sewer riser pipe shall have at least a four-inch diameter, shall be trapped below the ground surface and shall be so located on the trailer space

that the sewer connection to the trailer drain outlet will approximate a vertical position.

(2) The sewer connection (see definition) shall have a nominal inside diameter of at least three inches, and the slope of any portion thereof shall be at least one-fourth inch per foot. The sewer connection shall consist of one pipe only without any branch fittings. All joints shall be watertight.

(3) All materials used for sewer connections shall be of a type, quality and character as prescribed by the city's sewer use ordinance and shall be corrosive resistant nonabsorbent and durable. The inner surface shall be smooth.

(4) Provision shall be made for plugging the sewer riser pipe when a trailer does not occupy the space. Surface drainage shall be diverted away from the riser. (as added by Ord. #00-814, June 2000)

12-1230. Sink wastes. All liquid wastes shall be discharged into the sewer and no waste shall be discharged onto or allowed to accumulate on the ground surface. (as added by Ord. #00-814, June 2000)

12-1231. General requirements. Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances that shall be installed and maintained in accordance with all applicable codes and regulations governing such system. (as added by Ord. #00-814, June 2000)

12-1232. Power distribution lines. (1) Main power lines not located underground shall be suspended at least eighteen feet above the ground. There shall be a minimum horizontal clearance of three feet between overhead wiring and any mobile home or travel trailer, service building or other structure.

(2) All direct burial conductors or cable shall be buried at least eighteen inches below the ground surface and shall be insulated and specially designed for the purpose. Such conductors shall be located not less than one-foot radial distance from water, sewer, gas or communication lines. (as added by Ord. #00-814, June 2000)

12-1233. Individual electrical connections. (1) Each mobile home lot shall be provided with an approved disconnecting device and over current protective equipment. The minimum service per outlet shall be 120/240 volts AC, 50 amperes.

(2) Outlet receptacles at each trailer stand shall be located not more than twenty-five feet from the over current protective devices in the trailer and a three-pole, four-wire grounding type shall be used. Receptacles shall be of weatherproof construction and configurations shall be in accordance with the city's applicable electrical code.

(3) The mobile home shall be connected to the outlet receptacle by an approved type of flexible cable with connectors and a male attachment plug.

(4) Where the calculated load of the mobile home is more than 50 amperes either a second outlet receptacle shall be installed or electrical service shall be provided by means of permanently installed containers. (as added by Ord. #00-814, June 2000)

12-1234. Grounding of all exposed noncurrent metal parts. All exposed noncurrent carrying metal part of mobile homes and all other equipment shall be grounded by means of an approved grounding conductor with branch circuit conductors or other approved method of grounded metallic wiring. The neutral conductor shall not be used as an equipment ground for mobile homes or other equipment. (as added by Ord. #00-814, June 2000)

12-1235. Generally. The requirements of this division shall apply to service buildings, recreation buildings and other service facilities such as:

(1) Management offices, repair shops and storage areas.

(2) Sanitary facilities. (as added by Ord. #00-814, June 2000)

12-1236. Emergency sanitary facilities for mobile home parks. Every park shall be provided with the following emergency sanitation facilities; for such one hundred mobile home lots, or fractional part thereof there shall be one flush toilet and one lavatory for each sex. (as added by Ord. #00-814, June 2000)

12-1237. Structural requirements, illumination levels, etc., for buildings. (1) All portions of the structure shall be properly protected from damage by ordinary use and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

(2) All rooms containing sanitary or laundry facilities shall:

(a) Have sound resistant walls extending to the ceiling between male and female sanitary facilities. Walls and partitions around showers, bathtubs, lavatories and other plumbing fixtures shall be constructed of dense, nonabsorbent, waterproof material or covered with moisture resistant material.

(b) Have at least one window or skylight facing directly to the outdoors. The aggregate gross area of windows for each required room shall be not less than ten percent of floor area served by them.

(c) Have at least one window, which can be easily opened, or a mechanical device which will adequately ventilate the room.

(3) Toilets shall be located in separate compartments equipped with self-closing doors. The shower stalls shall be of the individual type. The rooms shall be screened to prevent direct view of the interior when the exterior doors are open.

(4) Illumination levels shall be maintained as follows:

(a) General seeing tasks-five foot candles;
(b) Laundry room work area-forty foot candles;
(c) Toilet room, in front of forty foot candles.

(5) Hot and cold water shall be furnished to each lavatory, sink, bathtub, shower and laundry fixture, and cold water shall be furnished to every water closet and urinal. (as added by Ord. #00-814, June 2000)

12-1238. Provisions regarding barbeque pits, fireplaces, etc. Cooking shelters and barbeque pits shall be so located, constructed, maintained and used as to minimize fire hazard and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors. No mobile home shall be equipped with or shall utilize any fireplace, wood burning stove or gas logs.

(1) The storage, collection and disposal of refuse in travel trailer parking area shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

(2) All refuse shall be stored in flytight, watertight rodent-proof containers, which shall be located not more than one hundred fifty feet from any trailer space. Containers shall be provided in sufficient number and capacity to properly store all refuse.

(3) Refuse collection stands shall be provided for all refuse containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and facilitate cleaning around them.

(4) All refuse containing garbage shall be collected weekly. Where suitable collection service is not available from the city, the owner or operator of the trailer parking area shall provide this service. All refuse shall be collected and transported in covered containers.

(5) Where municipal disposal service is not used the owner or operator of the trailer parking area shall dispose of the refuse by transporting to a disposal site approved by the health authority. (as added by Ord. #00-814, June 2000)

12-1239. Generally. (1) Grounds, buildings and structures shall be maintained free of insect and rodent haborage and/or infestation by any vector. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the health authority.

(2) Parking areas shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitos and other pests.

(3) Storage areas shall be so maintained as to prevent rodent harborage; lumber, pipe and other building materials shall be stored at least one foot above the ground.

(4) Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

(5) The growth of brush, weeds and grass shall be controlled to prevent harborage of ticks, chiggers and other noxious insects. Parking areas shall be so maintained as to prevent the growth of ragweed, poison ivy, poison oak, poison sumac and other noxious weeds considered detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description. (as added by Ord. #00-814, June 2000)

12-1240. Natural gas systems. (1) Natural gas piping systems (when natural gas shall be available) shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(2) Each mobile home provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use. (as added by Ord. #00-814, June 2000)

12-1241. Liquefied petroleum gas system. (1) Liquefied petroleum gas systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(2) Systems shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.

(3) Systems shall have at least one accessible means for shutting off gas. Such means shall be located outside the mobile home and shall be maintained in an effective operating condition.

(4) All LPG piping outside of the mobile homes shall be well supported and protected against mechanical injury. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in mobile homes.

(5) No liquefied petroleum gas vessel shall be stored or located inside or beneath any storage cabinet carport, mobile home or any other structure, unless such installations are approved by the health authority. (as added by Ord. #00-814, June 2000)

12-1242. Fuel oil supply systems. (1) All fuel oil supply systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.

(2) All piping from outside fuel storage tanks or cylinders to mobile homes shall be permanently and securely fastened in place.

(3) All fuel oil storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath any mobile home or less than five feet from any mobile home exit.

(4) Storage tanks located in areas subject to traffic shall be protected against physical damage. (as added by Ord. #00-814, June 2000)

12-1243. Generally. (1) The trailer park area shall be subject to the rules and regulations of the city fire department.

(2) Trailer parks shall be kept free of litter, rubbish and other flammable materials.

(3) Portable fire extinguishers of a type approved by the fire department shall be kept in service buildings and at all other locations designated by such fire prevention authority and shall be maintained in good operating condition.

(4) Fires shall be made only in stoves and other equipment intended for such purposes.

(5) (a) Fire hydrants shall be installed in mobile home parks at the expense of the park owner.

(b) Fire hydrants shall be located within five hundred feet of any mobile home, service building or other structure in the park. (as added by Ord. #00-814, June 2000)

CHAPTER 13

PROPERTY MAINTENANCE CODE

SECTION

12-1301. Property maintenance code adopted.
12-1302. Enforcement of violation; civil penalties.

12-1301. Property maintenance code adopted. The International Property Maintenance Code,[1] 2012 edition, including Appendix A, is hereby adopted as the official property maintenance code of the city. Ord. (as added by Ord. #1071, Oct. 2016)

12-102. Enforcement of violation; civil penalties. In addition to abatement of any condition as provided by any of the sections of chapter 13 of title 12, hereinabove or hereinafter set forth, failure to remedy any such condition after notice, is declared to be in violation of such particular ordinance or code section cited in the notice as to which the owners and/or occupants may be cited to city court or to appear before the city codes administrative hearing officer to answer for such violations. Each day of a continued violation after notice shall constitute a separate offense and for each day that said condition is unremedied, subject to the provisions of Tennessee Code Annotated, § 6-54-109, the offending owner and/or occupant may be fined, assessed the sum/civil penalty of up to five hundred dollars ($500.00) per day by the city judge or the city codes administrative hearing officer upon a finding of violation or of continued violation. The city court judge or the city codes administrative hearing officer have the authority and power to require the owner and/or occupant to abate any and all violations of any of the provisions of this chapter of title 12. Additionally, the city judge and/or administrative hearing officer shall, upon proper proof, add the amount of the enforcement costs, including attorney fees and abatement costs, incurred by the city to the amount of the fine/civil penalty to be paid by the owner and/or occupant of the offending premises. In addition, the city manager may file a municipal lien against the property found to be in violation to enforce the collection of the civil fine, civil penalty, enforcement costs, attorney fees, etc. (as added by Ord. #16-1069, Oct. 2016, and replaced by Ord. #1071, Oct. 2016)

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[1]Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

CHAPTER
1. MISCELLANEOUS.
2. ABANDONED, NON-OPERATING AND DISCARDED VEHICLES.
3. PORTABLE OUTDOOR STORAGE UNITS REGULATED.

CHAPTER 1

MISCELLANEOUS

SECTION
13-101. Health officer.
13-102. Stagnant water.
13-103. Weeds.
13-104. Dead animals.
13-105. Health and sanitation nuisances.
13-106. House trailers.
13-107. City manager to abate certain conditions.
13-108. Civil penalty; violations.

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. (1975 Code, § 8-801)

13-102. Stagnant water. It shall be unlawful for any person to knowingly allow any pool of stagnant water to accumulate and stand on his property. (1975 Code, § 8-805)

13-103. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city manager or chief of police to cut such vegetation when it has reached a height of over one (1) foot. (1975 Code, § 8-806)

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[1]Municipal code references
Animal control: title 10.
Littering streets, etc.: § 16-107.

13-104. 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. (1975 Code, § 8-807)

13-105. 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. (1975 Code, § 8-808)

13-106. House trailers. It shall be unlawful for any person to park, locate, or occupy any house trailer or portable building unless it complies with all plumbing, electrical, sanitary, and building provisions applicable to stationary structures and the proposed location conforms to the zoning provisions of the municipality and unless a permit therefor shall have been first duly issued by the building official, as provided for in the building code. (1975 Code, § 8-804)

13-107. City manager to abate certain conditions. When refuse is allowed to accumulate or weeds or grass or other vegetation to grow to such height as to be in violation of any provision of this code, the city manager shall so notify the property owner(s) as shown by the county tax assessor's records and give to such owner a specified reasonable period of time within which to correct such condition. If such condition(s) be not corrected within the specified period of time, the city manager may have the work done and assess the owner with the costs of such compliance and with the costs of enforcement. The assessment and costs thereof shall thereby become a lien against the property and shall be enforced in a like manner as all other liens for property improvements and/or may be enforced or collected by notifying the county tax assessor and/or the county trustee of such lien so as to mathmatically add the amount of such assessment and lien to the municipal ad valorem property taxes, to be collected by the county trustee in the same manner as other real property taxes. (1975 Code, § 8-809, as replaced by Ord. #00-819, July 2000)

13-108. Civil penalty; violations. In addition to abatement of any condition as prohibited by any of the sections of this chapter hereinabove or hereinafter set forth, failure to remedy any such condition after notice but prior to abatement is declared to be in violation of a particular ordinance or code section cited in the notice as to which the owners and/or occupants may be cited to city court for such violation(s). Each day of continued violation thereafter

shall constitute a separate offense and for each day that said condition is unremedied, the offending owner and/or occupant may be fined the sum of $50.00 by the city judge upon finding of guilt. Additionally, the city judge shall, upon proper proof, add the amount of the enforcement costs, including attorney fees and abatement cost(s), incurred by the city to the amount of the fine to be paid by the owner and/or occupant of the offending premises. (as added by Ord. #00-818, July 2000)

CHAPTER 2

ABANDONED, NON-OPERATING AND DISCARDED VEHICLES

SECTION

13-201. Abandoned and/or outside parking or storage of non-operating, partially dismantled or dismantled automobiles and/or unregistered vehicles declared a public nuisance.
13-202. Definitions.
13-203. Abandoning prohibited.
13-204. Leaving non-operating and/or junked and/or partially dismantled automobile on street prohibited.
13-205. Allowing on property.
13-206. Removal of abandoned and/or non-operating and/or unregistered motor vehicles required.
13-207. Notification and authority.
13-208. Notification of owners and lienholder.
13-209. Auction and disposition of abandoned and/or non-operating vehicles.
13-210. Violations; penalty.

13-201. Abandoned and/or outside parking or storage of non-operating, partially dismantled or dismantled automobiles and/or unregistered vehicles declared a public nuisance. In enacting this chapter the city commission of the City of Red Bank finds and declares that the accumulation, and/or outside parking and/or storage and/or abandonment of wrecked, junked, partially dismantled and/or non-operating motor vehicles and/or unregistered vehicles on public or private property in the City of Red Bank is and are in the nature of rubbish and unsightly debris, violates, in many instances, the zoning regulations of the city, and constitute(s) a nuisance detrimental to the health, safety and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of public and private property, create fire hazards, serve as a potential refuge for vermin and vectors, and create other health and safety hazards to the City of Red Bank. (as added by Ord. #98-765, March 1998, and amended by Ord. #13-997, Dec. 2013)

13-202. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

(1) "Abandoned motor vehicle" means a motor vehicle that is left unattended on public property for more than seven (7) days, or a motor vehicle that has remained illegally on public property for a period of more than forty-eight (48) hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours.

(2) "Non-operating automobile." A vehicle, or various parts thereof, which is not reasonably presently capable of traveling along the ground, under its own power, by reason of being wrecked, scrapped, ruined, dismantled, partially dismantled, disassembled, without operating engine, transmission, or drive train, without wheels or tires, or without inflated tires, without a working battery and/or without present ability to start and run for at least two (2) consecutive minutes under its own power and/or by reason of any single factor or combination of the above enumerated factors and/or which for any other factor or factors is not reasonably in operating condition.

(3) "Property." Any real property, whether public or private, within the city which is not a street or highway, or a public right-of-way.

(4) "Unregistered vehicle." Any vehicle which does not have properly and lawfully displayed license tags from the State of Tennessee and/or from a state or territory of the United States of America and/or as to which the owner, registrant or person(s) in possession of said vehicle is unable to produce current valid registration documents from the State of Tennessee or a state or territory of the United States of America.

(5) "Vehicle." A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides, and transport persons or property, or pull machinery, and shall include without limitations, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (1975 Code, § 9-701, as replaced by Ord. #98-765, March 1998, and amended by Ord. #13-997, Dec. 2013)

13-203. Abandoning prohibited. No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city, for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (1975 Code, § 9-702, as replaced by Ord. #98-765, March 1998)

13-204. Leaving non-operating and/or junked and/or partially dismantled automobile on street prohibited. No person shall leave any partially dismantled, non-operating, wrecked, dismantled, partially dismantled or junked vehicle or any unregistered vehicle on any street, alley, or highway within the city, or on any public right-of-way or public property. (1975 Code, § 9-703, as replaced by Ord. #98-765, March 1998, and amended by Ord. #13-997, Dec. 2013)

13-205. Allowing on property. No person in charge or control of any public or private property within the city whether the owner, tenant, occupant, lessee, or otherwise, shall allow any partially or wholly dismantled or non-operating, wrecked, junked or discarded vehicle or any unregistered vehicle to remain on such property or properties longer than ten (10) days, whether consecutive or not, in any one hundred eighty (180) day period, except that this

section shall not apply with regard to any such vehicle in an enclosed building; to a vehicle on the premises of a building enterprise operated in a property zoned and lawful place and manner when necessary to operation of such business enterprise; or to a vehicle in an appropriately enclosed storage place, or depository maintained in a properly zoned and lawful place and manner by the city or governmental authority. It shall not be a defense to a charge of violation under this section to move any such vehicle from one parcel of property in this city to another. (1975 Code, § 9-704, as replaced by Ord. #98-765, March 1998, and Ord. #99-794, Aug. 1999, and amended by Ord. #13-997, Dec. 2013)

13-206. Removal of abandoned and/or non-operating and/or unregistered motor vehicles required. (1) The accumulation and/or outside parking and/or outside storage of one or more abandoned, wrecked, junked, or non-operating automobile or vehicle, or any unregistered vehicle as otherwise in violation of the provisions of this chapter shall constitute rubbish and unsightly debris and unsightly debris and a nuisance detrimental to the health, safety and general welfare of the citizens and inhabitants of the City of Red Bank and it shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control and/or the owner of the property upon which motor vehicle is located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage and to have the vehicle housed within a building where it will not be visible from the street.

(2) Alternatively, and in addition to the prohibitions, remedies and procedures provided by this chapter, the city may avail itself of the processes and procedures set forth in Tennessee Code Annotated, § 15-16-101, et seq., as now enacted or as hereinafter amended, which provisions of the laws of the State of Tennessee are hereby adopted and incorporated herein by reference as an ordinance of this city. (1975 Code, § 9-705, as replaced by Ord. #98-765, March 1998, and amended by Ord. #99-794, Aug. 1999, and Ord. #13-997, Dec. 2013)

13-207. Notification and authority. Whenever any such public nuisance exists on occupied or unoccupied commercial or residential, private or public, property within the City of Red Bank, the owners of said property shall be notified by the city manager or his designee, to abate and to remove the same. Such order shall:

(1) Be in writing,

(2) Specify the public nuisance and its location,

(3) Specify the corrective measures required,

(4) Provide for compliance within ten (10) days from the date of notification and

(5) Advise the person entitled to notice of the possibility of enforcement and fined through the city court, including but not limited to posting the vehicle

with the written notice, which posting of the vehicle shall be deemed notice to the owner for all purposes under this chapter of the Red Bank City Code.

The notification shall be served upon the owner or owners of said premises and/or upon the owner or owners of said motor vehicle and/or upon the occupant, lessee, or person controlling the premises by serving them personally or by sending said notice by certified mail, return receipt requested, to their address as shown on the current tax roles of the City of Red Bank and/or by any other means available. If the owner or owners of the premises fail or refuse to comply with the notice within a ten (10) day period after notification thereof, as provided herein, such failure or refusal shall be deemed a violation of the provisions of this chapter and said person or persons shall be subject to the penalties herein provided. If the person or persons entitled to notice hereunder fail or refuse to comply with the notice and order, as above provided, within the ten (10) day period after notification thereof, as provided herein, city manager or his authorized designee, including the police department, may enter upon said property, take possession of such vehicle or vehicles, remove the same from said property, dispose of same and cause such unlawful condition to be remedied.

Upon completion of such removal and disposition, the reasonable costs thereof, plus 15% for inspection fees and other incidental costs in connection therewith, shall be paid by the owner or owners of said property to the City of Red Bank and said costs and expenses, including attorney fees, shall be billed to the owner or owners of said property. If the bill is not fully paid within sixty (60) days after the mailing of said bill, a ten percent (10%) penalty shall be added and fines, costs, penalties and fees shall be placed on the tax roles of the City of Red Bank as a lien upon the property and collected in the same manner as other city taxes are collected.

Provided, however, that prior to the removal of non-operating vehicle from private property, such vehicle itself shall first be posted with a notice of the intended removal and of the fact that the owner or possessor thereof shall be entitled to a hearing before the city manager, if requested to the city manager, within seven (7) days from the date of the notice. (as added by Ord. #98-765, March 1998, and amended by Ord. #03-881, Oct. 2003)

13-208. <u>Notification of owners and lienholder</u>. The police department upon taking into custody an abandoned motor vehicle or non-operating vehicle shall notify within fifteen (15) days thereof, by registered mail, return receipt requested, the last known registered owner of the motor vehicle, all lienholders of record, and, if applicable, the occupant of the premises from which the non-operating vehicle was removed, that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle; location of the facility where the motor vehicle is being held; inform the owner and any lienholder of their right to reclaim the motor vehicle within ten (10) days after the date of the

notice, upon payment of all towing, preservation and storage charges resulting from placing the vehicle in custody; and state that the failure of the owner or lienholder to exercise their right to reclaim the vehicle and consent of the sale of the abandoned motor vehicle at a public auction. (1975 Code, § 9-706, as amended by Ord. #98-765, March 1998, and Ord. #13-997, Dec. 2013)

13-209. Auction and disposition of abandoned and/or non-operating vehicles. (1) If an abandoned or non-operating vehicle has not been reclaimed as provided for in § 13-208, the police department or city manager shall sell the abandoned motor vehicle at a public auction.

(2) As authorized by Tennessee Code Annotated, § 55-16-106, et seq., the purchaser of the motor vehicle shall take title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department, and, upon presentation of such sales receipt, the department of revenue shall issue a certificate of title to the purchaser.

(3) The sales receipt only shall be sufficient title for purposes of transferring the vehicle to a demolisher for demolition, wrecking or dismantling, and, in such case no further titling of the vehicle shall be necessary.

(4) The proceeds of the sale of an abandoned motor vehicle shall be used for payment of the expenses of the auction, the cost of towing, preserving and storing the abandoned vehicle, and all notice of publication costs incurred pursuant to § 13-207.

(5) (a) Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for forty-five (45) days, and then shall be deposited in a reserve account in the general fund which shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned or non-operating vehicles in custody whenever the proceeds from a sale of such other abandoned motor vehicles are insufficient to meet these expenses and costs.

(b) Whenever the chief fiscal officer of the city finds that moneys in the reserve account are in excess of reserves likely to be needed for the purposes thereof, he may transfer the excess to the general fund, but in such event, claims against the reserve account, if the reserve account is temporarily exhausted, shall be met from the general fund to the limit of any transfer previously made thereto pursuant to this section. (1975 Code, § 9-707, as amended by Ord. #98-765, March 1998)

13-210. Violations; penalty. In addition to the abatement and removal provisions of this chapter, any person(s) violating any of the provisions of this chapter shall be deemed guilty of violation of city ordinance, and upon conviction thereof shall be fined a fine of up to $50.00 per each day of violation. Each day that such violation is committed, or continues after notification is provided hereinabove, shall constitute a separate offense and shall be punishable as such.

Failure to pay fine(s) and court costs may result in a sentence of confinement in the county jail for up to ten (10) days in the discretion of the judge and failure to pay the fine and court costs shall constitute a separate offense. (1975 Code, § 9-708, as amended by Ord. #98-765, March 1998)

CHAPTER 3

PORTABLE OUTDOOR STORAGE UNITES REGULATED

SECTION

13-301. Enactment of chapter.
13-302. Definitions.
13-303. Placement, permits and duration.
13-304. Regulations, placement and maintenance.
13-305. Violations, citations, penalties.

13-301. Enactment of chapter. In enacting these regulations and this chapter, the City Commission for the City of Red Bank finds and declares that there is a reasonable demand for the utilization of and access to Temporary Portable Outdoor Storage Units (TPOSUs) for residents and businesses and other entities in the City of Red Bank. The city commission also finds and declare that a reasonable system of regulation is necessary to address the health, safety and general welfare of the citizens of Red Bank and of the owners of real property in the City of Red Bank in that lack of reasonable regulation of TPOSUs as to size, timing, placement, duration of placement and manner of usage of such TPOSUs will tend to interfere with and reduce the enjoyment, utility and value of publicly and/or privately owned real properties in the City of Red Bank and/or would potentially and likely impede traffic flows and thereby potentially create dangerous conditions in the city. (as added by Ord. #15-1024, April 2015)

13-302. Definitions. (1) Temporary Portable Outdoor Storage Unit(s) (TPOSUs) are defined as a movable or otherwise reasonably portable storage unit, container, utility trailer, shed like container or structure or other portable covered or uncovered or partially covered structure or container that can or may be used for storage of personal property by a person, business, or entity of any kind and which is located, for such purposes outside of an enclosed building other than an otherwise permitted any properly zoned accessory structure(s). TPOSUs are typically intended to be located temporarily for loading and/or unloading of or for offsite storage of personal property and then moved to an offsite location for lawful storage and/or keeping and/or later relocation. Trailers (subject to size limitations hereinafter defined), whether covered, enclosed, and/or uncovered and/or partially covered are TPOSUs, for the purposes of this chapter when used or utilized, or where capable of being utilized, for temporary portable outdoor storage. Moving vans, trucks or tractor/trailer combinations are not necessarily but may be TPOSUs and are otherwise subject to regulation and/or other provisions of the Red Bank city code.

(2) Size. TPOSUs as defined herein shall not exceed sixteen feed (16') in length, eight feet (8') in height, or eight feet (8') in width. (as added by Ord. #15-1024, April 2015)

13-303. Placement, permits and duration. (1) (a) TPOSUs may be temporarily placed or utilized upon any property, parcel, tract or real estate in the City of Red Bank only for the general purposes of loading and/or unloading personal property from or to the premises, address or parcel upon which the TPOSUs is temporarily located and for the subsequent purpose(s) of coming from and/or going to an offsite lawfully operated and zoned and enclosed and permitted storage lot, warehouse and/or facility.

(b) No TPOSUs may be placed, outside an enclosed building or otherwise located upon any tract, parcel, lot or property in the City of Red Bank except and unless a permit therefore has been granted by the city manager and/or by his designee, and upon written application and upon such terms, provisions and conditions as determined by the city manager. To defer the administrative costs of regulation and of the application and permit process, a reasonable fee shall be charged by the city and may be revised in amount, from time to time, by resolution of the city commission acting in open session. The application fee is, subject to future modification by resolution as herein provided, initially established at twenty-five dollars ($25.00).

(c) Permits; duration. (i) Permits shall expire no later than fourteen (14) consecutive days after the date of issuance. After issuance and prior to expiration, and conditioned upon no then existing violation of the terms, provisions or conditions of the permit, and subject to the payment of an additional permit processing fee as established hereinabove, the permit may be extended for an additional period of up to fourteen (14) days or for such lesser amount of time as may be specified in the extended and/or reissued permit.

(2) Permits for TPOSUs may not be issued for any parcel, property address or tract for more than twenty-eight (28) days in any running three hundred sixty-five (365) day (1 year) period. (as added by Ord. #15-1024, April 2015)

13-304. Regulations, placement and maintenance. (1) No TPOSUs shall be placed or located on any street and/or city right-of-way.

(2) No TPOSUs shall be placed and/or located in the front yard of any property or within the front setback line from the street of any property and/or so as to block or restrict any driveway or sidewalk access by or to any property.

(3) TPOSUs must be placed in the driveway of the property and all placement locations must be paved, graveled, or concrete off-street surfaces.

(4) TPOSUs placement shall not, in the judgment of the city manager and/or the police chief and/or the designee of either of them, impede traffic flow on any public street or sidewalk, nor shall placement in any manner restrict the view field or sight line(s) of or with respect to any street or intersection or to any driver going into or out of driveway, traversing the public rights-of-way and/or parking lots in or on any adjoining parcel. (as added by Ord. #15-1024, April 2015)

13-305. Violations, citations, penalties. Violations of this chapter and/or of the failure to adhere to the terms or time periods of any permit issued hereunder, including specifically but not limited to holding over and/or continued placement of occupancy beyond the time period of any permit issued hereunder, shall result in the imposition of civil penalty/fine in an amount not to exceed fifty dollars ($50.00) per day per each TPOSUs, by the city court. Each day of violation and/or continued violation shall constitute a separate offense as to each TPOSU placed and/or permitted on any parcel(s). (as added by Ord. #15-1024, April 2015)

TITLE 14

ZONING AND LAND USE CONTROL

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

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION
14-101. Established.
14-102. Powers and duties of the planning commission.
14-103. Ordinances, rules, regulations, etc. adopted by reference.

14-101. Established. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101, et seq., there is hereby created and established a municipal planning commission hereinafter referred to as "The City of Red Bank Planning Commission" or as "planning commission."

(1) The Red Bank Planning Commission shall consist of five (5) members.

(2) The mayor shall not be required to be a member of the Red Bank Municipal Planning Commission and neither shall there be a requirement that any other commissioners shall be a member of the Red Bank Municipal Planning Commission.

(3) Each of the five (5) commissioners shall appoint one (1) member of the Red Bank Municipal Planning Commission and any one (1) or more of the commissioners shall be entitled, but shall not be required, to appoint himself or herself as a member of the Red Bank Municipal Planning Commission.

(4) The terms of the members of the Red Bank Municipal Planning Commission shall be for a term of four (4) years and the terms shall be staggered as follows:

Appointed By:

Commissioner, District 1 but with the first appointed term thereof to be shortened until ninety (90) days next following the regular city election set for November , 2014	4 years
Commissioner, District II	4 years

Commissioner, District III (Elected: November 2012 to fill the unexpired term from November 2012) but with the first appointed term thereof to be shortened until ninety (90) days next following the regular city election set for November, 2014	4 years
Commissioner, At Large (Elected: November, 2012)	4 years
Commissioner, At Large (Elected: November, 2010) but with the first appointed term thereof to be shortened until ninety (90) days next following the regular city election set for November, 2014	4 years

and such members of the Red Bank Municipal Planning Commission shall serve until their respective term(s) expire or until their respective replacement(s) shall be appointed and shall assume their position(s), whichever event shall later occur.

(5) To be eligible to serve as a member of the Red Bank Planning Commission a person shall meet all of the following qualifications:

(a) Be a citizen of the City of Red Bank.

(b) Be at least twenty-one (21) years of age.

(c) Be a registered voter in good standing iwth the Hamilton County Election Commission.

(d) Be an owner or co-owner of real property located within the City of Red Bank.

(6) A member of the Red Bank Municipal Planning Commission, once duly appointed, may be replaced at any time that a majority of the city commission shall determine that such member(s) is/are

(a) Unable to fulfill the duties of the office or

(b) Neglect their duties of office without good cause shown; good cause to be determined by a majority of the commissioners.

The placement for any such member of the Red Bank Municipal Planning Commission so removed shall be by appointment of the entitled-assigned commissioner who originally made the appointment and for the remainder of the unexpired term of the person removed.

(7) No commissioner who shall have appointed himself or herself as a member of the Red Bank Municipal Planning Commission shall continue to serve beyond the expiration of his or her elected term as Commissioner of the City of Red Bank unless the succeeding commissioner entitled to appoint to that position shall make the appointment to the Red Bank Municipal Planning Commission.

(8) Regular appointments to fill terms expiring in conjunction with the appointment schedule above should be, but shall not be required to be, made within ninety (90) days next following the coincident regular election of the city commissioner entitled to make such appointment(s) and as otherwise provided herein.

(9) After passage of Ordinance #12-982 on the second and final reading, and upon the effective date thereof (January 8, 2013), in order to facilitate the implementation fot he provisions of that ordinance, the terms of all then serving members of the Red Bank Municipal Planning Commission shall terminate and the terms of the new members of the Red Bank Municipal Planning Commission, as per the appointment schedule hereinabove provided, shall commence. Nothing contained herein shall prohibit any person from serving as members of the Red Bank Municipal Planning Commission prior to the effective date hereof from being reappointed to serve a new term on the Red Bank Municipal Planning Commission as the Red Bank Municipal Planning Commission shall then be reconstituted as a five (5) member board. (1975 Code, § 11-101, as replaced by Ord. #01-839, April 2001, and Ord. #01-838, April 2001, and amended by Ord. #01-848, Sept. 2001, and Ord. #12-982, Jan. 2013)

14-102. Powers and duties of the planning commission. The planning commission shall have such organization, rules, staff, powers, functions, duties and responsibilities as are prescribed in the general law relating to municipal planning commissions in Tennessee Code Annotated, Title 13. (as added by Ord. #01-838, April 2001)

14-103. Ordinances, rules, regulations, etc. adopted by reference. The ordinances, rules, regulations, plans, requirements, codes and standards in effect with respect to the City of Red Bank, enacted, promulgated and/or adopted heretofore by the Chattanooga-Hamilton County Regional Planning Commission are hereby adopted by reference and shall continue to be adhered to, observed and followed and shall be likewise the ordinances, rules, regulations, plans, requirements, codes and standards of the City of Red Bank Planning Commission unless and until changed, rescinded, or modified by the City of Red Bank. (as added by Ord. #01-838, April 2001)

CHAPTER 2

ZONING ORDINANCE

SECTION

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

14-201. Land use to be governed by zoning ordinance. Land use within the City of Red Bank shall be governed by Ordinance #15-1020, titled "Zoning Ordinance, Red Bank, Tennessee," and any amendments thereto.[1]

[1]Ordinance #15-1020 dated February 17, 2015, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

SUBDIVISION REGULATIONS

SECTION

14-301. Short title.
14-302. Purpose and interpretation.
14-303. Approving agency.
14-304. Definitions.
14-305. Limits of application.
14-306. Procedure.
14-307. General requirements.
14-308. Minimum standards of design.
14-309. Preliminary plat standards.
14-310. Final plat standards and forms.
14-311. Endorsements and accompanying material.
14-312. Developments required before final approval of the plat.
14-313. Appeal.
14-314. Enforcement and penalties.
14-315. Regulations are supplemental.
14-316. Flag lots.

14-301. Short title. This chapter shall be known, and may be cited as "The Subdivision Ordinance of the City of Red Bank." (1975 Code, § 11-1001)

14-302. Purpose and interpretation. The purpose and interpretation of these subdivision regulations is to provide for the proper control of community development. To achieve this, it is important to secure a coordinated layout and to make adequate provisions for light, air, traffic, recreation, water, drainage, sewer and other sanitary facilities.

It is, therefore, to the interest of the public, the developer, and the future residents that subdivisions be designed and developed in accordance with sound practice and proper standards. (1975 Code, § 11-1002)

14-303. Approving agency. In accordance with the provisions of Pub. Acts 1935, chs. 33 and 34, the provisions of this chapter shall be administered by the Chattanooga-Hamilton County Regional Planning Commission. (1975 Code, § 11-1003)

14-304. Definitions. For the purpose of this chapter, words and terms are defined as follows:

(1) "Subdivision." The division of a tract or parcel of land into two or more lots, sites or other divisions for the purpose, whether immediate or future, of sale or building development, and includes re-subdivision and, when

appropriate to the context, relates to the process of subdividing or to the land or area subdivided. (Pub. Acts 1935, ch. 35, § 6)

(2) "Plat." The map, drawing, or chart on which the subdivider's plan of subdivision is presented and which he submits for approval and intends in final form to record; it includes plat, plan plot and re-plot. (Pub. Acts 1935, ch. 45, § 8)

(3) "Planning commission." The Chattanooga-Hamilton County Regional Planning Commission, its board of commissioners, officers or staff.

(4) "City." City of Red Bank, administrative department, or as duly appointed by the city manager's office.

(5) "City commission." The board of commissioners of the City of Red Bank.

(6) "Official map." The map on which the planned locations, particularly the streets, are indicated with detail and exactness so as to function as the basis for property acquisition or building restriction.

(7) "Zoning ordinance." The Red Bank zoning ordinance as set out in chapter 2 in this title.

(8) "Streets." A public or private way, provided for the accommodation of vehicular traffic, or as a means of access to property, and includes streets, avenues, boulevards, roads, lanes, alleys, or other ways.

(9) "Main thoroughfare." A street designated as a major street on the master plan or on the official major city street plan.

(10) "Secondary thoroughfare." Any highway, thoroughfare, or street, other than a main thoroughfare.

(11) "Local service street." A street designated to accommodate local traffic, the major portion of which originates along the street itself.

(12) "Building line." A line on a plat indicating the limit upon which buildings or structures may be erected.

(13) "Lot width." The distance between side lot lines measured at the building line, as set forth in the zoning ordinance, parallel to the street line on which the lot fronts.

(14) "Hamilton County Groundwater Protection and Hamilton County Groundwater Protection Officer." The agency and person(s) designated by the city commission to administer the health regulations of the local government and of the State of Tennessee. (1975 Code, § 11-1004, as amended by Ord. #12-970, March 2012)

4-305. Limits of application. These subdivision regulations will apply within the corporate limits of the City of Red Bank Tennessee, and to such subdivisions in the area outside the corporate limits over which the city now has or may hereafter have jurisdiction under the laws of the State of Tennessee. (1975 Code, § 11-1005)

4-306. Procedure. (1) General. Application by the owner or his authorized representative for approval of a plat of a subdivision shall be made

in writing to the director of operations, Chattanooga-Hamilton County Regional Planning Commission.

(2) Preliminary plat. (a) The written application shall be accompanied by four (4) copies of the preliminary plat for the subdivision of the land. The plan of subdivision shall be such as to meet, at least, the minimum requirements of this chapter and of the minimum standards of design herein. The plat shall comply with the provisions, contain the information, and be accompanied by the material required by the standards adopted under this chapter.

(b) Previous to the submission of a preliminary plat, subdividers are invited to submit to the planning commission preliminary studies or sketches which may be helpful in discussing the preparation of the preliminary plat.

(3) Tentative approval. (a) The subdivider shall submit to the planning commission four (4) copies of his preliminary plat. The planning commission will review the preliminary plat in conjunction with the city manager. The planning commission shall, within thirty (30) days, pass on the preliminary plat as submitted or as modified and shall express tentative approval in writing or shall express disapproval in writing with the reasons therefor.

(b) If such action be one of tentative approval, such approval shall not constitute a final acceptance of the plat, but shall be deemed merely an expression of approval of the layout submitted on the preliminary plat. Approval of the final plat for record will be considered only after the requirements outlined herein under § 14-310 shall have been fulfilled.

(4) Final plat. The final or record subdivision plat shall be prepared and submitted to the planning commission in six (6) copies in the form of reproduction satisfactory to the planning commission, accurate as to scale and dimension, by the owner of the property or his authorized representative. It shall be submitted within one (1) year after the approval of the preliminary plat otherwise, the approval of the preliminary plat shall become null and void unless an extension of time is applied for and the extension is granted by the planning commission. The final plat shall show the same layout and arrangement as that shown on the preliminary plat which was tentatively approved by the planning commission. The final plat shall comply with the provisions and shall contain the complete data and information required by the standards adopted and described herein, and shall be accompanied by such other data or materials as is described in § 14-307 hereof. Four (4) reproductions of all final or record plats, and of the index sheet, if any, shall be furnished. The final plat shall be approved by the planning commission, such approval to be entered in writing on the plat by the secretary of the commission.

(5) Endorsements. The final plat shall, where applicable, show the endorsements, dedications and certificates which have been adopted as standards and which are described herein. (1975 Code, § 11-1006)

14-307. General requirements. (1) Relief from requirements. The following shall be considered as minimum requirements, and shall be varied by the planning commission only where practical difficulty or unnecessary hardship would be caused by their enforcement. The planning commission will permit a variation only where it can be done in such a way as to grant relief and at the same time protect the general interest. All such variations, and the reasons therefor, shall be noted in writing in the records of the planning commission.

(2) Conformity to official plan or map. Subdivisions shall be in harmony with the master plans of Hamilton County, and with the official map of the said county and City of Red Bank.

(3) Relation to adjoining street systems. (a) In so far as the master plan or official map does not indicate the size, location, direction and extent of a street, and subject to the regulations hereinafter specified regarding definite minimum widths, the arrangement of streets in a subdivision shall provide for the continuation of the principal streets existing in the adjoining subdivisions, or of their proper projection when adjoining property is not subdivided, and shall be of a width at least as great as that of such existing streets, except that where, in the opinion of the planning commission, topographical or other conditions make such continuance or conformity impracticable, the planning commission may approve a variation from this requirement.

(b) In cases where the planning commission itself prepares and adopts a plan or plat of a neighborhood or area of which the subdivision is a part and this plan or plat provides coordination with the street system of the county or city different from that of said continuations or projections of existing streets required above, the planning commission may approve a subdivider's plat which conforms to such neighborhood plat or plan of the planning commission.

(c) Where the plat submitted covers only a part of the subdivider's tract, a sketch of the proposed future street system of that unsubmitted part, shall be furnished and the street system of the part submitted shall be considered in the light of adjustments and connections with the street system of the part not submitted.

(4) Access. The subdividing of the land shall be such as to provide each lot, by means of either a public street or way or permanent easement, with satisfactory access to an existing public highway, street, or to a thoroughfare as shown on the official map or the master plan.

(5) Conformity to design standards of the commission. Subdivisions shall conform in all details to the standards of design adopted herein for street widths, street grades, street intersections, street names, easements, block lengths and widths, lot arrangements, building restrictions, tree planting, public open spaces, and other design standards on file at the office of the city manager and the planning commission and described herein.

(6) Monuments. Monuments shall be placed at all block corners angle points, points of curves in streets, and at such intermediate points as shall be

required by the city or at related points approved by the city. Monuments shall consist of iron rods or pins at least one-half inch in diameter by two feet (2') long, set in concrete at least six inches (6") in diameter by thirty inches (30") deep, or otherwise as approved by the city.

(7) Utilities. Where a plat is made up of lots less than one acre in size, the city shall require the installation of a central water system, and a central sanitary sewer system, or other satisfactory sewage disposal arrangements, and provide adequate storm sewer system or dedicate right-of-way for adequate, surface storm water disposal facilities, according to the standards and specifications prescribed by the city.

Water mains properly connected with the community water supply system or with an alternate supply approved by the Hamilton County Groundwater Protection Officer shall be constructed in such a manner as to adequately serve all lots shown on the subdivision plat for both domestic use and fire protection. (1975 Code, § 11-1007, as amended by Ord. #12-970, March 2012)

14-308. Minimum standards of design.

(1) General requirements. The subdivision layouts shall meet the general requirements specified in §§ 14-307, 14-309 and 14-310 hereof. All street and road work shall be approved by the city.

(2) Street widths. (a) The minimum width of the right-of-way for main thoroughfares shall be as specified in the major street plan of the county, or where not so specified, the minimum width shall be whatever may be deemed best or necessary by the planning commission for the future territory in which the plat is located, except that the minimum dedicated widths shall not ordinarily be less than fifty feet (50'). These widths shall be measured from lot line to lot line. In cases where the topography or other conditions make a street of the required minimum width impracticable, or inadvisable, the planning commission may modify the above requirements. A half street along adjoining property may be approved and should there be a half street dedicated and accepted in an adjoining plat along the boundary of this plat, the other half of said street or alley necessary to make complete such street or alley, shall be dedicated.

(b) All roadways shall have a graded width equal to 80 per cent of the width of the right-of-way.

(c) All roadways shall have a minimum paved surface width of 65 per cent of the graded width.

(d) All roadways shall have a minimum compacted surface thickness of six inches (6") and of a satisfactory material.

(e) All roadways shall have a concrete or extruded asphalt curb as specified in the appendix.

(f) All roadways shall have adequate drainage structures with inlet and outlet ditches. The clearance between the inside of all head

walls of drainage structures shall be equal to the width of the street. Drainage areas shall be shown for all drainage structures and drainage ditches.

(3) Street names. Extensions of existing streets shall be named the same as streets of which they are extensions. No names of new streets or plats submitted shall be duplicates of present names of streets or plats within that portion of Hamilton County outside of the limits of municipal corporations and the metropolitan area of Chattanooga.

(4) Grade of streets. In general, roads shall be planned to confirm to existing topographic conditions. Grades on major roads shall not exceed eight per cent. Grades on other roads may exceed twelve per cent for a distance up to 400' but not over fifteen percent. In extreme topographic conditions, grades above fifteen percent may be allowed by the city commission upon approval of a request for a variance by said commission. All variations and the reasons therefor shall be noted in writing in the official minutes of the city commission.

(5) Dead end streets. Streets designed to have one end permanently closed (cul de sacs) shall be provided at the closed end with a turnaround roadway having a minimum radius for the outside curb of at least thirty-five feet (35'), and a minimum radius of forty-five feet (45') to the property lines. The maximum length for any cul de sac shall not be greater than 600 feet.

(6) Intersection angles. As far as practicable, acute angles between streets at their intersection are to be avoided. Where a deflection angle of more than ten (10) degrees in a street line occurs at any point between two intersecting streets a curve of reasonably long radius is to be introduced.

(7) Rounding street corners. Whenever necessary to permit the obstruction of curbs having a reasonable radius at street corners, without curtailing the sidewalk to less than the normal width, the property line at such street corners shall be rounded or otherwise set back sufficiently to permit such construction. Normally the radius of the curb or edge of roadway at street intersections shall be not less than twenty feet (20') for local service streets and twenty-five feet (25') for secondary or main streets and thoroughfares. Larger radius may be required by the city manager when, in his opinion, such design is advisable.

(8) Easements. Except where alleys of not less than twenty feet (20') are dedicated, the planning commission may require easements not exceeding six feet (6') on each side of all rear lot lines, and on side lot lines where necessary or in the opinion of the planning commission advisable, for poles, wires, conduits, storm and sanitary sewers, gas, water and heat mains or other utility lines. Easements of the same or greater width may be required along the lines of or across lots where necessary for the extension of the existing or planned utilities.

(9) Block lengths. In blocks over one thousand feet (1,000') in length the city may require at or near the middle of the block a public crosswalk for foot traffic, having a right-of-way of not less than fifteen feet (15') in width. Blocks

of less than three hundred feet (300') or more than six hundred feet (600') are discouraged but may be approved where circumstances warrant.

(10) Block widths. The widths of blocks preferably shall be such as to allow for two tiers of lots, unless exceptional conditions are, in the opinion of the city manager, such as to render this requirement undesirable.

(11) Lot arrangements. In all quadrangular lots and, so far as practical, all other lots, the side lines shall be at right angles to straight street lines or radial to curved street lines. Arrangements placing adjacent lots at right angles to one another shall be avoided where practicable.

(12) Lot sizes. The minimum dimension for residential lots shall be seventy-five feet (75') for width measured at the building line, and in no case shall a residence lot contain less than 10,000 square feet, or contain less square feet than is required by the Red Bank zoning ordinance. There shall be no division or subdivision of platted lots that will result in a reduction in size of any of the platted lots involved in the resubdivision below this area. Corner lots shall have such extra width as will permit the establishment of a building line of not less than that required by the height and area regulations of the Red Bank zoning ordinance. The minimum depth of all residential lots shall be 125 feet.

(13) Building lines and restrictions. Building set back lines of minimum distance as required by height and area regulation of the Red Bank zoning ordinance shall be established back of the front lot lines of all lots. Between said building set back lines and the dedicated street lines no buildings or structure shall be erected, provided that this restriction shall not
apply to or preclude the erection of a pergola or open summer house.

(14) Tree planting. The planting of street trees is optional with the subdivider, but if done planting must receive the city's approval before planting of street trees is begun.

(15) Public open spaces. Where a small park or other neighborhood recreational open space shown on an official map or in a plan made and adopted by the city commission is located in whole or in part in the applicant's subdivision, the planning commission shall require the dedication or reservation of such open space within the subdivision up to a total of ten per cent (10%) of the gross area of the plat for park, playground, or other recreational purposes. (1975 Code, § 11-1008)

14-309. Preliminary plat standards. (1) Scale. The scale of the preliminary plat is optional but shall not be smaller than one hundred feet (100') to one inch (1").

(2) Information to be shown. The preliminary report shall show:

(a) The location of then existing lines, streets, buildings, water courses, railroads, utilities and other similar features.

(b) The names, locations, widths, and other dimensions of proposed streets, alleys, easements, parks and other open spaces, reservations, lot lines, building lines and utilities.

(c) The approximate location of existing sewers and water mains, culverts, and drain pipes proposed to be used on the property to be subdivided, and invert elevations of sewers at points of proposed connections, grade and elevation of all drainage ditches and area to be drained.

(d) The title under which the proposed subdivision is to be recorded, with the names and addresses of the owners the technical author of the plan, and a notation stating the acreage.

(e) The names of subdivisions immediately adjacent; also the location and names of adjacent streets and other public spaces on immediately adjoining properties.

(f) Contours at any vertical interval deemed sufficient by the city to explain the layout and design of all or details of the subdivision. Elevations shall be marked on such contours based on a datum plane approved by the city.

(g) Date, north point, and scale.

(h) The preliminary plat shall be accompanied by street profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical crosssection of the proposed grading, roadway and sidewalk; and preliminary plan of proposed sanitary and storm water sewers with grades and sizes indicated. All elevations shall be based on a datum plane approved by the city.

(i) All parcels of land proposed to be dedicated to public use and the conditions of such dedications, if any.

(j) The preliminary plat also shall be accompanied by a plan indicating the use of the lots proposed by the subdivider whether for one-family dwellings, multi-family housing, business or industrial purposes; and documents or copies shall be submitted of the proposed instruments whereby the use, building line, open space and other restrictions are proposed by the subdivider to be imposed. Proposed uses must be in accord with the use provisions of the Red Bank zoning ordinance. (1975 Code, § 11-1009)

14-310. Final plat standards and forms.

(1) Drafting standards. The final plat shall be drawn on sheets of not more than twenty-two inches (22") wide by thirty-three inches (33") long, to a scale of not less than 100 feet to a inch (unless the planning commission permits a lesser scale); provided that when more than one sheet is required, an index sheet of the same size shall be filed showing the entire subdivision at a scale to fit a single sheet with block and lot numbers indicated.

(2) Data required. The final plat shall comply with and shall contain the data specified in the following:

(a) The boundary lines of all proposed streets or other ways or easements and other open spaces intended to be dedicated for public use

or granted for use of inhabitants of the subdivision; lines of all adjoining streets and boundary lines of all proposed lots.

(b) The boundary of the subdivided tract with bearings and distances marked thereon. Such boundary shall be determined by survey in the field which shall be balanced, closed and referenced to adjoining streets or subdivisions in a manner satisfactory to the city, and certified to be correct by a qualified engineer or surveyor.

The length of all straight lines, radii, and arc distances; central angles on all curves, deflection angles between tangents, along the property lines of each street. All dimensions along the line of each lot, with the bearings or angles of intersection which they make with each other, or both, and any other data necessary for the location of any lot line in the field, the location of all building lines proposed by the subdivider. All lengths shall be the nearest one-hundredth of a foot, United States Standard Measures. If more convenient, bearings may be used instead of angles.

(c) The locations and plane coordinates of all required monuments (see § 14-307) and all adjoining street intersections to the nearest one-hundredth of a foot and referred to a true (reference) meridian and to a point of origin approved by the city, such true meridian and plane coordinates being the basis also for all bearings and lengths shown on the plat. If the city has adopted an official plane coordinate system, the plane coordinates of the monument shall be based upon such official system, by means of traverse surveys connecting the subdivision surveys with the control survey monuments of the official coordinate system. Such connecting traverse ties shall be made from at least two different points, if possible, and preferably on opposite sides of the subdivision. The accuracy of the connecting traverse shall be at least 1:10,000. An abstract of the field notes and computations therefor shall accompany the final plat filed with the city manager, showing complete details of the connecting traverses.

(d) The names of all streets or ways of the subdivision; the names of all adjoining streets or ways. The names of all subdivisions immediately adjacent, or when adjoining property is not a recorded subdivision, the name of the owners thereof; and the book and page number of the public records where adjoining subdivisions or tracts are recorded.

(e) Date, title, legend, north point, and scale. The title shall include the name of the subdivision under which it is to be recorded. The north point should indicate true north for the area, as well as the plane coordinate north in case this is different from true north. Explanatory notes should give the origin and longitude of the reference meridian of the plane coordinate system. The legend will show the various lines (solid, dotted, or dashed) and other symbols used with explanations thereof.

(f) All forms such as endorsements, dedications and certificates required to be shown on the plat, as described in § 14-306.

(g) The final plat shall be accompanied by profiles of streets showing grades approved by the city. Such profiles shall be drawn to city standard scales and elevations shall be based on a datum plane approved by the city. (1975 Code, § 11-1010)

14-311. Endorsements and accompanying material. (1) The final plat, where applicable, shall show the following endorsement, dedications and certificates:

(a) Certificate of title showing the ownership of the land to be in the subdivider, or his principal, or other applicant for approval.

(b) Certificate of dedication of streets, alleys or other public spaces by signature of the owner or owners. Said signatures must be properly acknowledged and witnessed.

(c) Certificate by competent authority that there are no encumbrances on any lands dedicated to the public.

(d) Description of boundary survey.

(e) Space and form for notation of plat volume and page number and date of recording in county register of deeds office.

(f) Any other forms, endorsements, and certificates may, in special cases, be determined by the city manager.

(2) All forms (such as endorsements, dedications, and certificates, in so far as required to be entered on the plats) shall be in accordance with the forms adopted by the planning commission and described below; and, except where otherwise required or permitted, shall be signed by the owner of the property. The four copies of the final plat shall contain all signatures, endorsements, dedications and certificates, and shall be left with the planning commission for its files or transmission to other departments. Where a plat is filed in multiple sheets all signatures, endorsements, dedications and certificates shall appear on each sheet. (1975 Code, § 11-1011)

14-312. Developments required before final approval of the plat. The planning commission will consider approval of the final plat for record only after monuments have been installed in accordance with the specifications given below, and after there has been filed with the city manager any of the following certificates or bonds, which, in the opinion of the city manager, is required by the public interest:

(1) A certificate that all streets shown on the plat have been graded and improved, and that, where required, sewerage and water utilities and facilities have been installed, in accordance with the city's specifications; or

(2) A duly completed and executed bond by a surety company authorized to execute bonds in the State of Tennessee, certified by the city attorney as valid and enforceable by the city in an amount, and with surety

satisfactory to the city manager, securing the making and installation of these improvements, utilities and facilities within the period fixed by the city.

(3) The city will not make any improvements to the streets, alleys and other public ways of any subdivider or grant any services to said subdivision unless plat of said subdivision is duly approved as provided herein, and is recorded in the office of the register of Hamilton County, Tennessee. (1975 Code, § 11-1012)

14-313. Appeal. Any person, firm or corporation may appeal from the action of the planning commission in failing or refusing to approve any plat or plan submitted under the provisions of this chapter within a period of ten (10) days after rejection by the planning commission. The Red Bank board of zoning appeals, after hearing evidence on behalf of the owner and planning commission, may determine whether or not the planning commission shall be sustained or overruled. (1975 Code, § 11-1013)

14-314. Enforcement and penalties. (1) No plat or plan of the subdivision of land into two or more lots shall be recorded by the county register of deeds until said plat or plan has received final approval, in writing, by the planning commission.

(2) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be fined under the general penalty clause for this code. (1975 Code, § 11-1014)

14-315. Regulations are supplemental. These regulations are deemed supplemental to and are to be administered to enhance the administration of the Red Bank zoning ordinance. (1975 Code, § 11-1015)

14-316. Flag lots. Flag lots may be used for access to property which would otherwise prove infeasible or impractical to access with a public street. Flag lots are intended to be used to preserve the natural features or to create more environmentally sensitive building sites. Flag lots are not intended to abrogate standard subdivision development when it is feasible to construct public roads.

Flag lots may be used provided the following non-waivable conditions are met:

(1) The minimum frontage for residential flag lots shall be not less than thirty-five (35) feet on a public street, private drive, or easement (except that the city commission may allow the lot frontage to be reduced to not less than fifteen (15) feet when existing structures and/or their required yards would be infringed upon) capable of being used for ingress and egress; and

(2) Frontage of flag lots shall be separated by a minimum of two hundred (200) feet, measured on a straight line from nearest corner to nearest corner; and

(3) Minimum building site area for flag lots shall be two (2) times the minimum building site area specified in the zoning height and area regulations; and

(4) With reference to slope, soil stability, drainage, and other pertinent characteristics, the access-way of a flag lot shall be capable of being used as a drive for access from the public street, private drive, or easement to the flag lot. (1975 Code, § 11-1016, as replaced by Ord. #95-707, Jan. 1996)

CHAPTER 4

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-401. Statutory authorization, findings of fact, purpose and objectives.
14-402. Definitions.
14-403. General provisions.
14-404. Administration.
14-405. Provisions for flood hazard reduction.
14-406. Variance procedures.
14-407. Legal status provisions.

14-401. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, § 6-19-101 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Red Bank, Tennessee, Mayor and its Legislative Body do ordain as follows:

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

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

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

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

(a) Restrict or prohibit uses which are vulnerable to flooding or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion;

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

(4) Objectives. The objectives of this ordinance are:

(a) To protect human life, health, safety and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodprone areas;

(f) To help maintain a stable tax base by providing for the sound use and development of floodprone areas to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodprone area;

(h) To maintain eligibility for participation in the NFIP. (as added by Ord. #11-959, March 2011)

14-402. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this ordinance, shall conform to the following:

(a) Accessory structures shall only be used for parking of vehicles and storage.

(b) Accessory structures shall be designed to have low flood damage potential.

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

(d) Accessory structures shall be firmly anchored to prevent flotation, collapse, and lateral movement, which otherwise may result in damage to other structures.

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

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

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

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

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

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

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

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

(9) "Building" see "structure."

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

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

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

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

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

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

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

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

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

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

(a) The overflow of inland or tidal waters.

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

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

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

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

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" is the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Directly by the Secretary of the Interior.

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

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

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use

with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

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

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

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

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

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

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

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

(48) "100-year flood" see "base flood."

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

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

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck;

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

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

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

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

(57) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure," for purposes of this ordinance, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

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

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

(a) The appraised value of the structure prior to the start of the initial improvement; or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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

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

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

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #11-959, March 2011)

14-403. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of the City of Red Bank, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Red Bank, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community ID 47065CIND0A and Panel Number(s) 0218, 0219, 0327, 0329, 0331, 0332, 0333, dated November 7, 2002, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

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

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

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

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

(a) Considered as minimum requirements;

(b) Liberally construed in favor of the governing body; and

(c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

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

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate

offense. Nothing herein contained shall prevent the City of Red Bank, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #11-959, March 2011)

14-404. Administration. (1) Designation of ordinance administrator. The director of public works is hereby appointed as the administrator to implement the provisions of this ordinance.

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

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

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

(iv) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-405(1) and (2).

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

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

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

under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

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

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

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

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

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

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

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

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

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-404(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-404(2).

(h) When floodproofing is utilized for a non-residential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-404(2).

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

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

(k) Maintain all records pertaining to the provisions of this ordinance in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #11-959, March 2011)

14-405. Provisions for flood hazard reduction. (1) General standards. In all areas of special flood hazard, the following provisions are required:

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

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

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

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

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

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

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

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

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

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

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-405(2);

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

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

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in § 14-405(1), are required:

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

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood

hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

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

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or non-residential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Non-residential buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-404(2).

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

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-405(2).

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions;

must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-402).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-405(1) and (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by

quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

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

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

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

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

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-405(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-403(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the City of Red Bank, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-403(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-403(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-405(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-405(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Red Bank, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-405(1) and (2). Within approximate A Zones, require that those subsections of § 14-405(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-403(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-405(1) and (2), apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of § 14-405(2).

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered

professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-404(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A99 Zones). Located within the areas of special flood hazard established in § 14-403(2) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A99 Zones) all provisions of §§ 14-404 and 14-405 shall apply.

(8) Standards for unmapped streams. Located within the City of Red Bank, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-404 and 14-405. (as added by Ord. #11-959, March 2011)

14-406. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. A board of floodplain review is hereby established which shall consist of three (3) members appointed by the chief executive officer. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, a fee of two hundred dollars ($200.00) for the cost of publishing a notice of such hearings shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than fifteen (15) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Red Bank, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this ordinance to preserve the historic character and design of the structure.

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-406(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for

flood insurance (as high as twenty-five dollars ($25.00) for one hundred dollars ($100.00)) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (as added by Ord. #11-959, March 2011)

14-407. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of the City of Red Bank, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. The ordinance comprising this chapter shall become effective immediately after its passage, in accordance with the Charter of the City of Red Bank, Tennessee, and the public welfare demanding it. (as added by Ord. #11-959, March 2011)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.
8. TRAFFIC CONTROL PHOTOGRAPHIC SYSTEMS.

CHAPTER 1

MISCELLANEOUS[2]

SECTION

15-101. Motor vehicle requirements.
15-102. Driving on streets closed for repairs, etc.
15-103. Reckless driving.
15-104. One-way streets.
15-105. Unlaned streets.
15-106. Laned streets.
15-107. Yellow lines.
15-108. Miscellaneous traffic-control signs, etc.
15-109. General requirements for traffic-control signs, etc.
15-110. Unauthorized traffic-control signs, etc.
15-111. Presumption with respect to traffic-control signs, etc.
15-112. School safety patrols.
15-113. Driving through funerals or other processions.

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

[2]State law references
Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

15-114. Clinging to vehicles in motion.
15-115. Riding on outside of vehicles.
15-116. Backing vehicles.
15-117. Projections from the rear of vehicles.
15-118. Causing unnecessary noise.
15-119. Vehicles and operators to be licensed.
15-120. Passing.
15-121. Damaging pavements.
15-122. Motorcycles and motor driven cycles.
15-123. Responsibility of parents and guardians for minor cyclists.
15-124. Use of certain properties as a raceway, bike trail, motor vehicle testing ground, etc., prohibited.
15-125. Driver's license required for operation of a motor vehicle.
15-126. Automobile registration required.
15-127. Display of registration plates.
15-128. Safety belts; child restraint devices.
15-129. Operation of improper vehicles.

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. (1975 Code, § 9-101)

15-102. Driving on streets closed for repairs, etc. Except for necessary access to property abutting thereon, no motor vehicle shall be driven upon any street that is barricaded or closed for repairs or other lawful purpose. (1975 Code, § 9-106)

15-103. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1975 Code, § 9-107)

15-104. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1975 Code, § 9-109)

15-105. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

(a) When lawfully overtaking and passing another vehicle proceeding in the same direction.

(b) When the right half of a roadway is closed to traffic while under construction or repair.

(c) Upon a roadway designated and signposted by the municipality for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1975 Code, § 9-110)

15-106. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets, the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary.

Upon all streets which have a center lane specifically and clearly marked as being restricted for use by vehicles intending to make a left turn from said street it shall be unlawful for the driver of any motor vehicle to utilize said lane for through traffic, or for the purpose of overtaking or passing other vehicles. It shall also be unlawful for any driver of any motor vehicle to enter said lane at any point more than two hundred (200) feet prior to reaching the intersecting street into which said driver intends to make a left turn. (1975 Code, § 9-111)

15-107. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1975 Code, § 9-112)

15-108. Miscellaneous traffic-control signs, etc.[1] It shall be unlawful for any pedestrian or the operator of any vehicle to violate or fail to comply with any traffic-control sign, signal, marking, or device placed or erected by the state or the municipality. (1975 Code, § 9-113)

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[1]Municipal code references

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

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,[1] published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the municipality. This section shall not be construed as being mandatory but is merely directive. (1975 Code, § 9-114)

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. (1975 Code, § 9-115)

15-111. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper municipal authority. All presently installed traffic-control signs, signals, markings and devices are hereby expressly authorized, ratified, approved and made official. (1975 Code, § 9-116)

15-112. School safety patrols. All motorists and pedestrians shall obey the directions or signals of school safety patrols when such patrols are assigned under the authority of the chief of police and are acting in accordance with instructions; provided, that such persons giving any order, signal, or direction shall at the time be wearing some insignia and/or using authorized flags for giving signals. (1975 Code, § 9-117)

15-113. Driving through funerals or other processions. Except when otherwise directed by a police officer, no driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated. (1975 Code, § 9-118)

15-114. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any

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[1]This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

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. (1975 Code, § 9-120)

15-115. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1975 Code, § 9-121)

15-116. Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1975 Code, § 9-122)

15-117. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (½) hour after sunset and one-half (½) 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. (1975 Code, § 9-123)

15-118. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1975 Code, § 9-124)

15-119. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1975 Code, § 9-125)

15-120. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

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. (1975 Code, § 9-126)

15-121. Damaging pavements. No person shall operate upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels or track is likely to damage the surface or foundation of the street. (1975 Code, § 9-119)

15-122. Motorcycles and motor driven cycles. All persons operating a motorcycle or motor driven cycle of any kind and character, and any passenger or passengers riding thereon, are required to wear a crash helmet of a type approved by the Commissioner of Safety of the State of Tennessee. No person shall ride as a passenger upon a motorcycle or motor driven cycle of any kind unless a proper seat for such passenger is installed thereon. All motorcycles and motor driven cycles operated upon any highway or public street of the City of Red Bank shall be equipped with crash bars approved by said commissioner. Every motorcycle or motor driven cycle of any kind or character operated upon any highway or public street of the City of Red Bank shall be equipped with a windshield of a type approved by the said commissioner, or in the alternative, the operator, and any passenger on such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by said commissioner for the purpose of preventing any flying objects from striking the operator or any passenger in the eye. (1975 Code, § 9-127)

15-123. Responsibility of parents and guardians for minor cyclists. It shall be unlawful and a violation of this section for any parent or guardian knowingly to permit a minor to operate a motorcycle or motor driven cycle in violation of any of the provisions of § 15-122 hereof. (1975 Code, § 9-128)

15-124. Use of certain properties as a raceway, bike trail, motor vehicle testing ground, etc., prohibited. (1) It shall be unlawful for any person to use any park, playground, or school property owned or leased by the City of Red Bank, or by any other governmental agency, as a raceway, bike trail, motor vehicle testing ground, or for any other purpose which might entail a danger of bodily injury to other persons on the premises.

(2) It shall be unlawful to drive any motor vehicle upon any portion of such park, playground, or school ground, except upon the portions set aside and designated for vehicular traffic.

(3) It shall be unlawful for any person to use any private property of any person in this city as a raceway, or as a bike trail, or as a ground for testing of motor vehicles, without the express written consent of the owner of such property. (1975 Code, § 9-129)

15-125. Driver's license required for operation of a motor vehicle.

(1) No person may operate a motor vehicle of any kind on any street, road, highway, or public thoroughfare within the city unless such person has a valid driver's license.

(2) No person while within the passenger compartment of any motor vehicle shall steer or exercise any degree of physical control of a vehicle towed by a motor vehicle upon a street, highway or public thoroughfare within the city unless such person has a valid state driver's license.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-681, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

15-126. Automobile registration required. No vehicle may be operated upon the streets, highways, or public thoroughfares of the city unless such vehicle has been properly registered as required by state law.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-682, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

15-127. Display of registration plates. All motor vehicles operated within the city shall display registration plates issued by a state government.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-683, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

15-128. Safety belts; child restraint devices. (1) "Passenger car" or "passenger motor vehicle" means a motor vehicle with a manufacturer's gross vehicle weight of 8,500 pounds or less that is not used as a public or commercial motor vehicle for conveyance of passengers for hire.

(2) No person shall operate a motor vehicle within the city unless such person and all passengers four (4) years of age or older are restrained by a safety belt at all times the vehicle is in forward motion unless otherwise provided. Provided, however, no citation shall be issued for a violation of this section unless a person has been stopped by a law enforcement officer for a separate violation of law and is issued a citation for the separate violation of law.

(3) A person operating a motor vehicle upon a road, street or highway within the city shall provide for the protection of a child under the age of four (4) a child passenger restraint system meeting federal motor vehicle safety standards.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-684, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

15-129. Operation of improper vehicles. No vehicle, truck, engine, or tractor of any kind, whether such vehicle be propelled by steam, gasoline, or otherwise, shall be permitted to operate upon any street, road, highway, or other public thoroughfare within the city which, either by reason of its weight or the character of its wheels, will materially injure the surface or foundation of such street, road, highway, public thoroughfare, including the bridges thereon, unless otherwise authorized by permit or approval from the city manager.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-685, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

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 city manager. (1975 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.[1] (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 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. (1975 Code, § 9-103)

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[1]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. (1975 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1975 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.
15-302. At intersections.
15-303. In school zones.
15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of twenty-five (25) miles per hour except where official signs have been posted indicating other speed limits, in which cases the posted speed limit shall apply. (1975 Code, § 9-201, as amended by Ord. #06-921, Sept. 2006)

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. (1975 Code, § 9-202)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle through any school zone or near any playground at a rate of speed in excess of fifteen (15) miles per hour when official signs indicating such speed limit have been posted by authority of the municipality. This section shall not apply at times when children are not in the vicinity of a school and such posted signs have been covered by direction of the chief of police. (1975 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1975 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Signals.
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.
15-406. Cutting across private property at intersections.

15-401. Signals. No person operating a motor vehicle shall make any turning movement which might affect the operation of any other vehicle without first signaling his intention in accordance with the requirements of the state law.[1] (1975 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1975 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1975 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1975 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1975 Code, § 9-305)

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[1]State law reference
Tennessee Code Annotated, § 55-8-143.

15-406. <u>Cutting across private property at intersections</u>. No person operating a motor vehicle shall, at any intersection in this city, cut across private property for the purpose of avoiding entering and turning at the intersection. (1975 Code, § 9-306)

CHAPTER 5

STOPPING AND YIELDING

SECTION

15-501. Upon approach of authorized emergency vehicles.
15-502. When emerging from alleys, etc.
15-503. To prevent obstructing an intersection.
15-504. At railroad crossings.
15-505. At "stop" signs.
15-506. At "yield" signs.
15-507. At traffic-control signals generally.
15-508. At flashing traffic-control signals.
15-509. At pedestrian control signals.
15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.[1] Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1975 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1975 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1975 Code, § 9-403)

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[1]Municipal code reference
Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1975 Code, § 9-404)

15-505. 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. (1975 Code, § 9-405)

15-506. 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. (1975 Code, § 9-406)

15-507. 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.

(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. (1975 Code, § 9-407)

15-508. 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 by the municipality 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 title. (1975 Code, § 9-408)

15-509. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:

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

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1975 Code, § 9-409)

15-510. 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,[1] except in an emergency. (1975 Code, § 9-410)

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[1]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. Stopping, standing, and parking prohibited and/or regulated in certain specified places and/or circumstances.
15-605. Loading and unloading zones.
15-606. Regulation by parking meters.
15-607. Lawful parking in parking meter spaces.
15-608. Unlawful parking in parking meter spaces.
15-609. Unlawful to occupy more than one parking meter space.
15-610. Unlawful to deface or tamper with meters.
15-611. Unlawful to deposit slugs in meters.
15-612. Presumption with respect to illegal parking.
15-613. Definition of handicapped.
15-614. Unauthorized parking in spaces designated for handicapped or display of distinguishing license plates, placards, distress flags, or cards.
15-615. Consent to enforce on private property.

15-601. Generally. No person shall park a vehicle in such a manner as to block, hinder or retard the orderly movement of traffic. Except as hereinafter provided, every vehicle parked upon a street within this municipality 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 municipality 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, display for sale, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1975 Code, § 9-501)

15-602. Angle parking. On those streets which have been signed or marked by the municipality 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. (1975 Code, § 9-502)

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. (1975 Code, § 9-503)

15-604. Stopping, standing, and parking prohibited and/or regulated in certain specified places and/or circumstances.

(1) Definitions. For the purposes of this chapter of the Red Bank City Code, "vehicle" shall be defined to be and reference any automobile, truck, tractor, tractor trailer, trailer, trailer body, mobile home, house trailer, camper trailer, bus or any similar vehicle, means of conveyance, or equipment and whether or not motorized or capable of movement.

(2) Except as expressly and in the limited circumstances hereafter provided, no person shall stop, stand or park any vehicle except when necessary to avoid conflict with other traffic or in compliance with law and/or directions of a police officer, fire department personnel, emergency response personnel, or any traffic control device in any of the following circumstances, places, or on any city street or city right-of-way regardless of width of pavement:

(a) On a sidewalk.

(b) Within ten feet (10') of or in front of any public or private driveway or curb cut.

(c) Within twenty feet (20') of any intersection.

(d) Within fifteen feet (15') of any fire hydrant.

(e) On or within any crosswalk for pedestrians or non-motorized vehicular traffic.

(f) Within twenty feet (20') of a crosswalk at any intersection.

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

(h) Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the local traffic authority indicates a different length by signs or markings.

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

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

(k) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

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

(m) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.

(n) At such place or places, marked by signage as the city shall determine, and designated by the city manager who, upon consultation with the chief of police and/or the fire chief or other professionals, as shall have or potentially have the possibility of impeding the passage and/or access by police, fire, emergency response vehicles, school buses, garbage trucks or public works vehicles, and/or which may be otherwise potentially detrimental to the safe passage of motor vehicles, bicycles or similar conveyances or which may otherwise potentially create an unsafe environment for children playing or for other recreational type activities.

(o) Alongside any curb painted the color "yellow" or otherwise designated "NO PARKING" by the city.

(p) In or adjacent to any residentially zoned real property in the City where the width of pavement is equal to or less than twenty-four (24) feet measured from curb to curb or where there is no such curb from pavement edge to pavement edge. In the context of commercial delivery and working vehicles, while loading and/or unloading equipment, commodities, furniture, fixtures equipment and/or building material and similar or dissimilar goods, and as relates to service vehicles generally, this subsection (p) shall not apply so long as:

(i) Any such parking shall be limited to the space immediately in front of the premises being served by such parked vehicle and

(ii) Such parking shall occur only during daylight hours and shall not exceed two (2) hours in any running eight hour period, and may continue no longer than necessary for unloading and loading or for the time on the premises commercial activity shall actually occur and

(iii) There shall not be available on premises parking for the premises actually being serviced by such vehicle and

(iv) There shall at all times be available a minimum pavement width of not less than fifteen feet (15') for safe passage of emergency vehicles and

(v) The person or entity relying on this exception shall set out plastic traffic cones, at least two feet, twenty-four inches (2', 24") inches in height to warn approaching motorists of the stationary parked vehicle and provided further that

(vi) The exception(s) hereinabove noted shall yield to the order of any Red Bank Police Department or Red Bank Fire Department personnel who shall determine that any such parking

or standing vehicle interferes unreasonably with safe traffic flow and/or safety concerns at any time or from time to time.

(q) In any other manner or fashion, so as to impede or potentially impede the safe and free passage of any fire, police, or other emergency responders, school buses, garbage trucks or any city public works vehicles and/or the motoring public in general.

Provided and except that the prohibitive provisions of this chapter shall not apply to any vehicle belonging to any governmental entity or agency or any ambulance or emergency vehicle while engaged in official business of such governmental entity or agency or any ambulance or emergency vehicle, provided further that personnel from or of and with respect to such governmental agency or entity or ambulance or emergency vehicle shall obey the lawful orders and commands of any police officer of the City of Red Bank engaged in official business of and with respect to requiring such governmental employee or officer to adhere to all terms of this ordinance and of this section. (1975 Code, § 9-504, as replaced by Ord. #18-1112, March 2018)

15-605. Loading and unloading zones. The city manager shall not hereafter designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit for such zone and for two signs to indicate the ends of each such zone. The city manager, upon granting a permit and issuing such signs, shall collect from the applicant and deposit in the city treasury an annual service fee of $25.00 for each twenty (20) feet of curb loading zone, or fraction thereof, not, however, to exceed the curb frontage of the applicant.

Between the hours of 7:00 A.M. and 7:00 P.M. 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 municipality as a loading and unloading zone. (1975 Code, § 9-505)

15-606. Regulation by parking meters. In the absence of an official sign to the contrary which has been installed by the municipality, between the hours of 8:00 A.M. and 6:00 P.M., on all days except Sundays and holidays declared by the governing body, parking shall be regulated by parking meters where the same have been installed by the municipality. The presumption shall be that all installed parking meters were lawfully installed by the municipality. (1975 Code, § 9-506)

15-607. Lawful parking in parking meter spaces. Any parking space regulated by a parking meter may be lawfully occupied by a vehicle only after a proper coin has been deposited in the parking meter and the said meter has been activated or placed in operation in accordance with the instructions printed thereon. (1975 Code, § 9-507)

15-608. Unlawful parking in parking meter spaces. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked in a parking space regulated by a parking meter for more than the maximum period of time which can be purchased at one time. Insertion of additional coin or coins in the meter to purchase additional time is unlawful.

No owner or operator of any vehicle shall park or allow his vehicle to be parked in such a space when the parking meter therefor indicates no parking time allowed, whether such indication is the result of a failure to deposit a coin or to operate the lever or other actuating device on the meter, or the result of the automatic operation of the meter following the expiration of the lawful parking time subsequent to depositing a coin therein at the time the vehicle was parked. (1975 Code, § 9-508)

15-609. Unlawful to occupy more than one parking meter space. It shall be unlawful for the owner or operator of any vehicle to park or allow his vehicle to be parked across any line or marking designating a parking meter space or otherwise so that such vehicle is not entirely within the designated parking meter space; provided, however, that vehicles which are too large to park within one space may be permitted to occupy two adjoining spaces provided proper coins are placed in both meters. (1975 Code, § 9-509)

15-610. Unlawful to deface or tamper with meters. It shall be unlawful for any unauthorized person to open, deface, tamper with, willfully break, destroy, or impair the usefulness of any parking meter. (1975 Code, § 9-510)

15-611. Unlawful to deposit slugs in meters. It shall be unlawful for any person to deposit in a parking meter any slug or other substitute for a coin of the United States. (1975 Code, § 9-511)

15-612. 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. (1975 Code, § 9-512)

15-613. Definition of handicapped. For the purposes of this chapter, a handicapped person is one who is disabled by paraplegia, amputation of leg, foot, or both hands, or is disabled by loss of use of a leg, foot, or both hands, or other condition, certified to by a physician duly licensed to practice medicine, resulting in an equal degree of disability (specifying the particular condition) so as not to be able to get about without great difficulty, including impairments that, regardless of cause or manifestation, confines such person to a wheel-chair, or cause such person to walk with difficulty or insecurity, and includes, but is not limited to, those persons using braces or crutches, arthritics, spastics, and

those with pulmonary or cardiac ailments who may be semi-ambulatory. For purposes of this chapter, a person shall be considered a handicap if such person has a vision of not more than 20/200 with correcting glasses. (1975 Code, § 9-513)

15-614. Unauthorized parking in spaces designated for handicapped or display of distinguishing license plates, placards, distress flags, or cards. The following acts or conducts are hereby declared to be unlawful:

(1) For any person, other than a handicapped person as herein defined to display the handicapped card, distress flag, or placard, upon any motor vehicle.

(2) For any person to park a motor vehicle in any parking space designated with a wheelchair disabled sign, unless said motor vehicle bears or displays a handicap card, a distress flag, distinguishing handicap placard or license plate, or disabled veteran's license plate.

Violation of this provision shall be punishable by a fine of no more than $25.00 for the first offense, and not less than $50.00 for each subsequent offense. (1975 Code, § 9-514)

15-615. Consent to enforce on private property. The action of any person owning or operating any business, or owning, operating or controlling any property, in making spaces upon parking lots, or in parking areas owned, operated or controlled by such person, with a wheel-chair disabled sign shall be deemed to constitute a specific request by such person that the provisions of this chapter be enforced by this city with respect to such parking spaces so marked, and further shall constitute a specific authorization for the police officers of this city to enforce the provisions of this chapter upon that property. (as(1975 Code, § 9-515)

CHAPTER 7

ENFORCEMENT

SECTION

15-701. Issuance of traffic citations.
15-702. Failure to obey citation.
15-703. Illegal parking.
15-704. Impoundment of vehicles.
15-705. Disposal of abandoned motor vehicles.
15-706. Violation and penalty.
15-707. Definitions.
15-708. Minor moving traffic violations -- residents -- payment.
15-709. Minor moving traffic violations -- transients -- bond.
15-710. Minor moving traffic violations -- applicable fines.
15-711. Discretion of arresting officer.
15-712. Minimum fines -- certain offenses.
15-713. Parking violations.
15-714. Applicable fines and bonds -- payment.
15-715. Other offenses.
15-716. Administrative regulations.
15-717. Deposit of chauffeur's or operator's license in lieu of bail.
15-718. Receipt to be issued.
15-719. Failure to appear -- disposition of license.

15-701. Issuance of traffic citations.[1] When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. (1975 Code, § 9-602)

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. (1975 Code, § 9-603)

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[1]State law reference
Tennessee Code Annotated, § 7-63-101, et seq.

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. (1975 Code, § 9-604, modified)

15-704. Impoundment of vehicles. Police officers and/or fire officials are authorized, when reasonably necessary, to prevent the obstruction of traffic to remove from the streets and impound any vehicle:

(1) Whose operator is arrested or otherwise impaired or unable to operate such vehicle(s);

(2) Which is illegally parked or abandoned; or

(3) Which in the judgment of such officer is an obstruction or hazard to normal traffic.

(4) In the circumstance of a lawful order of any police officer not to park in any particular designated area and/or to remove a vehicle already parked, the above sections and prohibitions shall not apply to on-street parking for registered commercial vehicles for parcel pick up or delivery not to exceed, in any event, a time period of ten (10) minutes in any given circumstance or occurrence.

The provisions of this section shall not apply to the driver of any vehicle which is mechanically disabled while on a paved or improved or traveled portion of a street or highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such vehicle in such position. "Temporarily" for the provisions of this ordinance shall be defined as being a time span of thirty (30) minutes or less. In addition, even if left for less than thirty (30) minutes, any Red Bank police officer and of fire department officials or personnel is authorized and shall, when reasonably necessary to prevent the obstruction of traffic, remove from the streets or impound the vehicle, regardless of the time the vehicle is left parked, in which event all other provisions of this code relative to the abandonment or removal of parked, wrecked, damaged or inoperable vehicles shall be applicable and the owner of the vehicle shall pay, for reclaiming same, any applicable fines, an impoundment fee of fifty dollars ($50.00), all wrecker charges and storage fees of ten dollars ($10.00) per day if stored by the city until reclaimed. If stored at a private storage facility the storage cost will be the charge of the private facility. (1975 Code, § 9-601, as amended by Ord. #00-807, April 2000, and replaced by Ord. #18-1112, March 2018)

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. (1975 Code, § 9-601.1)

15-706. Violation and penalty. Except for §§ 15-125--15-129, any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars ($50.00) for each separate offense.

(2) Parking citations. (a) Parking meter. If the offense is a parking meter violation, the offender may, within ten (10) days, have the charge against him disposed of by paying to the city recorder a fine of one dollar ($1.00) provided he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant for his arrest is issued, his fine shall be two dollars ($2.00).

(b) Other parking violations. For other parking violations, the offender may similarly waive his right to a judicial hearing and have the charges disposed of out of court but the fines shall be in accordance with § 15-710 within ten (10) days and double that thereafter. (1975 Code, § 9-604, modified)

15-707. Definitions. The following words and phrases, when used herein, shall have the meanings hereinafter set forth:

(1) "Acceptable bond." A cash bond: A bond executed by a professional bondsman authorized to make bonds in the Criminal Courts of Hamilton County, Tennessee, or such other security as may be approved by the city judge.

(2) "Applicable court costs." The maximum court costs collectible by the city under the provisions of § 6-2125 of the municipal charter.

(3) "Applicable fine." As used in this chapter, shall mean the amount required to be paid upon conviction of, or upon entering a plea of guilty to, a minor moving traffic violation, and shall include both the applicable court costs, and the penalty for such violation.

(4) "Minor moving traffic violations." All moving traffic violations, not involving an accident, for which a specified fine and costs are provided in § 15-710.

(5) "Municipal offense." An offense against the municipal ordinances or provisions of the municipal code of the City of Red Bank.

(6) "Residents." Those persons who, according to their driver's license, or other acceptable identification, reside within Tennessee.

(7) "State offense." An offense against the laws of the State of Tennessee.

(8) "Transients." All persons who are not residents as herein defined. (1975 Code, § 9-605)

15-708. Minor moving traffic violations -- residents -- payment. Except as otherwise herein provided, any resident charged with a minor moving

traffic violation may, at his option, appear at the city hall at any time prior to the date and time set for his hearing, and execute a proper waiver, and pay the applicable fine established by § 15-710 hereof. (1975 Code, § 9-606)

15-709. Minor moving traffic violations -- transients -- bond. Except as otherwise herein provided, any transient charged with a minor moving traffic violation may, in lieu of incarceration upon arrest, post an acceptable bond in an amount equal to the applicable fine established by § 15-710 hereof. (1975 Code, § 9-607)

15-710. Minor moving traffic violations -- applicable fines. Except as otherwise herein provided, all persons guilty of the following minor moving traffic violations shall pay the following fines plus applicable court costs to wit:

A minimum fine of $25.00 and up to a maximum fine of $50.00 per violation shall be assessed and paid, together with applicable court costs for minor moving traffic violations including, but no necessarily limited to:

Exceeding the speed limit, first offense and second offense

Improper turning movements

Failure to obey a traffic signal

Failure to obey a stop sign or yield sign or other traffic control sign or device

Improper passing

Tailgating and/or following too closely

Improper lane change

Failure to yield the right-of-way

Cutting through private property

Violation of state driver's license law

Violation of auto registration law

(1975 Code, § 9-608, as amended by Ord. #00-808, April 2000)

15-711. Discretion of arresting officer. In all cases coming within the purview of §§ 15-708 through 15-710 hereof, the arresting officer may nevertheless require the offender to appear in court when, in his discretion, the circumstances warrant it. (1975 Code, § 9-609)

15-712. Minimum fines -- certain offenses. All fines and penalties imposed by the city court for the following offenses shall be not less than the sums hereinafter set forth, plus applicable court costs:

(1) Exceeding speed limit by not more than 20 mph - third subsequent offense $20.00

(2) Exceeding speed limit by more than 20 mph - first offense $10.00

(3) Exceeding speed limit by more than 20 mph -

second offense $15.00
(4) Exceeding speed limit by more than 20 mph - third subsequent offense $20.00
(1975 Code, § 9-610)

15-713. Parking violations. Fines for parking violations, which sum shall not include, and shall be in addition to, court costs, shall be as follows:
(1) All parking violations, except double parking $1.00
(2) Double parking - first offense $2.00
(3) Double parking - second offense within twelve months . . . $5.00

(4) Double parking - third and subsequent offenses within twelve months $10.00

Provided, however, that the city court may waive the costs for any parking violation when the offender enters a plea of guilty and pays the fine without the necessity of a trial. (1975 Code, § 9-611)

15-714. Applicable fines and bonds -- payment. Payment of all fines and bonds pursuant to the provisions of §§ 15-708 through 15-710 hereof shall be made to the city recorder, or his designated deputy. (1975 Code, § 9-612)

15-715. Other offenses. In all state offenses, and in all municipal offenses except those coming under §§ 15-708 through 15-713 hereof, the minimum fine shall be $2.00 plus costs. (1975 Code, § 9-613)

15-716. Administrative regulations. The city manager may adopt such administrative regulations as he may deem appropriate to facilitate the operations of the police department, the traffic bureau, and the recorder's office, in connection with the matters dealt with in this chapter, provided that such regulations are not in conflict with the charter or ordinances of this city. (1975 Code, § 9-614)

15-717. Deposit of chauffeur's or operator's license in lieu of bail. Whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any municipal ordinance or state statute regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of an operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court. (1975 Code, § 9-615)

15-718. Receipt to be issued. The officer, or the court demanding bail, who receives any person's chauffeur's or operator's license, as herein provided, shall issue to said person a receipt for said license upon a form approved or provided by the Tennessee Department of Safety. (1975 Code, § 9-616)

15-719. Failure to appear -- disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charge filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee

Department of Safety for disposition by said department in accordance with provisions of Tennessee Code Annotated, §§ 55-50-801--55-50-805. (1975 Code, § 9-617)

CHAPTER 8

TRAFFIC CONTROL PHOTOGRAPHIC SYSTEMS

SECTION

15-801. Traffic control photographic systems.
15-802. Administration.
15-803. Offense.
15-804. Procedure.
15-805. Penalty.

15-801. Traffic control photographic systems. (1) Definitions. The following words, terms and phrases, when used herein, shall have ascribed to them the following meanings, except where the context clearly indicates a different meaning.

(a) "Citations and warning notices" shall mean the documents of notice of violation and shall include:

(i) The name and address of the registered owner of the vehicle;

(ii) The registration plate number of the motor vehicle involved in the violation;

(iii) The violation charged;

(iv) The location of the violation;

(v) The date and time of the violation;

(vi) A copy of the recorded image;

(vii) The amount of the civil penalty imposed and the date by which the civil penalty should be paid;

(viii) A sworn statement signed by an officer or contractor of the Red Bank Police Department that based on inspection, the subject motor vehicle was being operated in violation of the applicable enumerated section(s) of the Red Bank City Code; and

(ix) Information advising the person alleged to be liable for violations of the enumerated section(s) of the Red Bank City Code of the manner and time in which the liability alleged in the citation may be contested in city court, and warning that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(b) "Recorded images" means images and/or electronic recorded data recorded by a traffic control photographic and/or speed detection system:

(i) On a photograph, microphotograph, electronic image, videotape, speed detection device(s) or technology or any other medium; and

(ii) At least one (1) image or portion of tape, clearly identifying the registration plate number, or other identifying designation of the license plate, on the motor vehicle.

(c) "System location" is the approach to an intersection or street or highway toward which a traffic control photographic system device, including but not limited to a photographic, video, or electronic camera, and/or speed detection device(s) or technology is directed and is in operation.

(d) "Traffic control photographic system" is an electronic system consisting of a photographic, video or electronic camera and a vehicle sensor and/or speed detection device(s) or technology installed to work in conjunction with an official traffic control sign, signal or device, and to automatically produce photographs, video or digital images and/or other electronic media capable of detecting and recording vehicle speed of each vehicle violating a standard traffic control sign, signal, device or posted speed limit.

(e) "Vehicle owner" is the person identified on records maintained by the State of Tennessee and other states' Departments of Safety, as the registered owner of a motor vehicle. (as added by Ord. #05-909, Sept. 2005, amended by Ord. #07-935, Dec. 2007, replaced by Ord. #10-955, May 2010, and amended by Ord. #10-956, May 2010)

15-802. <u>Administration</u>. (1) The Red Bank Police Department shall administer the traffic control photographic speed detection and video system and shall maintain a list of all system locations where traffic control photographic systems are installed. The city may contract with third parties to perform administrative and clerical functions.

(2) No third party contractor shall have the authority to issue citations and no citations shall issue except upon review of the photograph(s), digital and/or video images by the Red Bank Police Department. Upon review of such images by the Red Bank Police Department, on each case, and upon express approval for the issuance of a citation by the Red Bank Police Department, a third party contractor may perform the ministerial functions of preparing, mailing, serving and/or processing citations.

(3) Signs to indicate the use of the traffic control photographic speed detection and video system may be clearly posted in the discretion of the Red Bank Police Department.

(4) All fines paid and/or collected shall be paid to the City of Red Bank.

(5) The City of Red Bank shall have all necessary power and authority to contractually provide for the purchase, lease, rental, acquisition and/or to enter a service contract(s) so as to fully and necessarily implement the provisions of the traffic control photographic system authorized hereby. (as added by Ord. #05-909, Sept. 2005, amended by Ord. #07-935, Dec. 2007, replaced by Ord. #10-955, May 2010, and amended by Ord. #10-956, May 2010)

15-803. Offense. (1) It shall be unlawful for a vehicle to cross the stop line at a system location, in disregard or disobedience of the traffic control sign, signal or device at such location, or to otherwise violate any section of the Red Bank City Code with respect to obedience to traffic lights, stop signs or traffic signals.

(2) It shall be unlawful for any vehicle to travel through a system location at a rate of speed in excess of that rate of speed established or posted for any such system location(s). (as added by Ord. #05-909, Sept. 2005, and replaced by Ord. #10-955, May 2010)

15-804. Procedure. (1) The city shall adopt procedures for the issuance of uniform citations and, if deemed appropriate, warning notices hereunder. Such system may include the use of third party contractors to perform ministerial tasks.

(2) A citation or warning notice so issued, alleging an offense hereunder in violation of § 15-803 of the Red Bank City Code, which is sworn to or affirmed by an official of the Red Bank Police Department based on inspection of recorded images produced by the traffic control photographic system, and which includes copies of such recorded images, shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding alleging a violation hereunder. The citation or warning notice shall be forwarded by first-class mail, postmarked not later than thirty (30) days after the date of the alleged violation, to the vehicle owner's address as given on the motor vehicle registration records maintained by the State of Tennessee Departments of Safety and other states motor vehicle registration departments. Personal delivery to or personal service of process on the owner of the vehicle will not be required.

(3) A person who receives a citation or warning notice may:

(a) Pay the accessed fine and civil penalty, in accordance with instructions on the citation or warning notice, directly to the city court clerk; or

(b) Elect to contest the citation for the alleged violation.

(4) Liability hereunder shall be determined based upon preponderance of the evidence. Admission into evidence of a citation or warning notice, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall permit the trier of fact in its discretion to infer that such owner of the vehicle was the driver of the vehicle at the time of the alleged violation. Such an inference may be rebutted if the owner of the vehicle:

(a) Testifies under oath in open court that he or she was not the operator of the vehicle at the time of the alleged violation; and

(b) Presents to the court prior to the return date established on the citation and warning notice a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation; or

(c) Submits to the court prior to the return date established on the citation and warning notice the owner's sworn notarized statement that the vehicle was in the care, custody or control of another person or entity at the time of the violation and accurately identifying the name and accurately stating the current address and relationship to or affiliation with the owner, of the person or entity who leased, rented or otherwise had such possession of the vehicle at the time of the alleged violation. (as added by Ord. #05-909, Sept. 2005, and replaced by Ord. #10-955, May 2010)

15-805. Penalty. (1) Any offense hereunder shall be deemed a non-criminal violation for which a civil penalty of fifty dollars ($50.00) shall be assessed. Failure to pay the civil penalty or appear in court to contest the citation or warning notice on the designated date shall result in the imposition of the stated fine by default and assessment of court costs as otherwise provided for by ordinance for citations to the City Court of Red Bank, Tennessee. The city may establish procedures for the trial of civil violators and may enforce and collect all penalties in the nature of a debt as otherwise provided by law.

(2) All revenues generated from penalties and assessments associated with the enforcement of this chapter shall go into the general fund, provided however that the city manager shall be expressly authorized to pay such administration costs as are necessarily incurred and by contract authorized in order to implement and administer this system(s) hereby authorized.

(3) A violation for which a civil penalty is imposed hereunder shall not be considered a moving violation and may not be recorded by the division of police services or the Tennessee Department of Safety on the driving record of the owner or driver of the vehicle and may not be considered in the provision of motor vehicle insurance coverage.

(4) All recorded images generated by the traffic control photographic system, including, but not limited to photographs, electronic images, and videotape, shall be solely owned by the City of Red Bank. (as added by Ord. #05-909, Sept. 2005, and replaced by Ord. #10-955, May 2010)

TITLE 16

STREETS AND SIDEWALKS, ETC.[1]

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.
3. DRIVEWAYS AND DRAINAGE.

CHAPTER 1

MISCELLANEOUS

SECTION

16-101. Obstructing highways, passageways, sidewalks and other thoroughfares (and places where the public gathers).
16-102. Trees projecting over streets, etc., regulated.
16-103. 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.
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16-109. Abutting occupants to keep sidewalks clean, mowed, etc.
16-110. Parades regulated.
16-111. Disrupting a meeting or procession.
16-112. Railroad crossings.
16-113. Animals and vehicles on sidewalks.
16-114. Mailboxes, etc.
16-115. Official street map and street names.
16-116. Erosion control and obstruction of street, sidewalks and rights-of-way.
16-117. Tampering with construction signs and barricades; travel on closed roads.

16-101. Obstructing highways, passageways, sidewalks and other thoroughfares (and places where the public gathers). (1) It shall be unlawful for any person, without legal authority or privilege, to intentionally, knowingly or recklessly obstruct a highway, street, sidewalk, railway, waterway, elevator, isle or hallway to which the public, or a substantial portion of the public, has access or any other place used for the passage of persons, vehicles or

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

conveyances, whether the obstruction arises from the person's acts alone or from the person's acts and the acts of others.

(2) It shall be unlawful for any person to disobey a reasonable request or order to move issued by a person known to be a law enforcement officer, a fireman, or a person with authority to control the use of premises to prevent obstruction of a highway or passageway, maintain public safety by disturbing those gathered in dangerous proximity to a fire, riot or other hazard.

(3) "Obstruction" means to render passage unreasonably inconvenient, dangerous, and/or potentially injurious to person or property.

(4) 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. Provided further, however, that during business hours only merchants may, for the purposes of receiving, selling or exhibiting any goods, wares, merchandise or materials place the goods, wares, merchandise or materials against the exterior walls of their building, provided that there is at least six (6) feet clearance between the street and/or curb and the displayed goods, wares, merchandise or materials.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-695, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street, alley, or sidewalk at a height of less than fourteen (14) feet. (1975 Code, § 12-402)

16-103. Obstructing view at intersections prohibited. It is hereby declared to be the policy of the city to maintain, insofar as possible, visibility at all intersections in the city to a point where drivers approaching the intersections upon any street shall, upon reaching a point 20 feet from the intersection, have a clear field of vision for traffic approaching upon the intersecting street for at least 100 feet.

Whenever, by reason of any growth in the corner of an intersection, whether said growth be cultivated or natural, or by reason of any fence or other obstructions, the visibility described in the preceding section is not present, the city manager shall have the power to order the owner of said property to so clear or trim such vegetation as to create the required visibility.

Should the owner of the property after receiving such an order from the city manager fail or refuse to comply therewith, such failure or refusal shall be a misdemeanor.

In addition to the penalties set forth in the penalty clause for this code, upon failure to comply with the order of the city manager within 30 days, the city manager shall have the right to proceed with city forces to so clear or trim the vegetation in question or remove the obstruction, so as to create the visibility described herein. In the event such work is done by the city after a failure or refusal of the property owner to comply with a due and proper order of the city manager, the entire cost thereof shall be a legal obligation of the property owner, and shall constitute a lien upon the property in question superior to all other liens against said property except for tax liens due the United States, the State of Tennessee, or this city, with which liens it shall be a lien of equal dignity. Said lien may be enforced in the same manner as all other municipal property liens. (1975 Code, § 12-403)

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code. (1975 Code, § 12-404)

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 governing body. (1975 Code, § 12-405)

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. (1975 Code, § 12-406)

16-107. Littering streets, alleys or sidewalks prohibited.[1] Except in the instance of properly containerized garbage and refuse on designated pick up days, it shall be unlawful for any person to litter, place, throw, blow, discharge or rake or allow to fall on any street, alley, sidewalk, the area adjacent to any sidewalk, or gutter, any refuse, glass, tacks, garbage, debris, weeds, grass, or grass clippings.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of

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[1]Municipal code reference
Refuse and anti-litter regulations: title 17.

incarceration shall be controlling. (Ord. #95-697, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

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. (1975 Code, § 12-408)

16-109. Abutting occupants to keep sidewalks clean, mowed, etc.[1] The occupants of property abutting on a sidewalk are required to keep the sidewalk clean, free of debris, litter, and other objects which tend to obstruct or limit or interfere in any manner with the use of the public way and places for their intended purposes and such occupants of property abutting a sidewalk adjacent to which is located a strip of grass or other vegetation are likewise required to keep the grass and vegetation mowed and in a neat and trimmed condition.

Provided further, immediately after a snow, sleet or ice storm, event or occurrence, such occupants are required to remove all accumulated snow or ice from the sidewalk abutting the property abutting such premises.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-698, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

16-110. Parades regulated. It shall be unlawful for any club, organization or similar group to hold any meeting, parade, demonstration or exhibition on the public streets without some responsible representative first securing a permit from the city manager. No permit shall be issued by the city manager 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 immediately clean up the resulting litter. (1975 Code, § 12-410)

16-111. Disrupting a meeting or procession. It shall be unlawful for any person to intentionally prevent or disrupt a lawful meeting, procession, or

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[1]Municipal code reference
Refuse and anti-litter regulations: title 17.

gathering, if the person substantially obstructs or interferes with the meeting, procession, or gathering by physical action or verbal utterance.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-694, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

16-112. Railroad crossings. (1) Construction, maintenance of crossings. All railroad companies operating trains across the streets of the city shall lay and keep in good repair the pavement at all such street crossings as provided herein. The surface of such pavement shall be on a level with the top of the rail of the tracks, and shall be laid between the rails and for a width of one foot on the outside of each outside rail of such tracks. The whole shall be so laid as to make a smooth and even surface, and when two (2) or more tracks are closer together than twenty (20) feet, pavement shall be laid in the space between each track. Failure on the part of any railroad company to comply with this section shall be a violation of this section.

(2) Crossing regulations. All railroad companies operating trains across any of the streets of the city shall conform to the following restrictions and regulations:

(a) Not more than one train of any kind shall be moved in any direction over a street crossing at one time except scheduled passenger and freight trains in operation as through trains.

(b) All switching and irregular trains, going back or forth over street crossings, shall clear the crossing.

(c) When a train has made a crossing in any direction, it shall remain standing, before recrossing, until the crossing is cleaned of traffic.

(d) No trains of any kind shall be allowed to stop upon any street crossing, except in case of accident or clear necessity.

(3) Obstruction of traffic on streets. It shall be unlawful for any conductor, engineer, or other employee of any railroad company which maintains tracks across any street in this city to obstruct the streets or prevent the free passage of traffic for longer than five (5) minutes at any one time while operating a railroad engine or train.

(4) Whistles and bells. (a) The whistle and bell of every engine or train shall be so operated so as to safeguard the public, provided, however, that unnecessary sounding of the whistle or bell to the disturbance of the public shall be avoided.

(b) It shall be unlawful for the engineer or other person to ring the bell or blow the whistle of any railroad engine or train in the city by means of any device by which such bell may be made to continue to ring

or such whistle to blow automatically or without action on the part of the engineer or other person.

(c) It shall be unlawful for any locomotive used regularly in the city for switching cars to be equipped with any mechanical or automatic device by which the bell of such locomotive may be rung, or the whistle thereon blown, without action on the part of the engineer or other person. (1975 Code, § 12-411)

16-113. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push or place any vehicle across or upon any sidewalk in such a manner as to unreasonably interfere with or inconvenience pedestrians using the sidewalk. It shall also be unlawful for any person to knowingly allow any minor under his control to violate this section. (1975 Code, § 12-412)

16-114. Mailboxes, etc. No mailbox or other receptacle designed for the receipt of mail, circulars, notices, newspapers, or other similar materials shall be erected upon the right-of-way of any street or highway, or within ten (10) feet thereof unless such receptacle shall conform to the following regulations:

(1) The receptacle shall conform to all regulations of the United States Post Office Department.

(2) The receptacle shall be of metal, and shall be erected on a post or wall of proper height to be reached from the window of any vehicle driving on the street or highway.

(3) The receptacle shall bear, either upon one side, or upon a plaque or similar structure on the top thereof, the surname and street address of the person using such box, plus such additional information as the user or owner desires to put thereon.

(4) Wherever a single receptacle is used by two or more families it shall bear the surname of each family using it in addition to the street address. (1975 Code, § 12-413)

16-115. Official street map and street names. (1) The street map prepared by the city engineer, designated MP-1 and dated December 6, 1976, and showing the approval of the City Commission of the City of Red Bank and of the Chattanooga-Hamilton County Regional Planning Commission on December 7, 1976, be, and the same is hereby adopted as the official street map of the City of Red Bank, Tennessee.

(2) The list of street names prepared by the city engineer's office, and approved by the board of commissioners on December 7, 1976, and by the Chattanooga-Hamilton County Planning Commission on December 15, 1976, is hereby adopted as the official list of street names of all streets in the City of Red Bank.

(3) A copy of the map described in subsection (1) and a copy of the street list described in subsection (2) hereof shall be attached to a copy of this chapter, and these said three documents shall be maintained together with the books of ordinances of the city at the city hall. (1975 Code, § 12-414)

16-116. Erosion control and obstruction of streets, sidewalks and rights-of-way. (1) No person, corporation, landlord, contractor, subcontractor, excavator, tenant, group or entity owning, controlling, working on or occupying any land, building or premises located within the city shall cause or allow to be maintained within the city any condition or occurrence whereby any dirt, gravel, mud, rock, or debris of any kind or nature deposited from the property or realty so owned, occupied, worked or maintained shall be allowed or caused to wash, fall, run, flow or occupy, either partially or completely, any city street, road, sidewalk, or public right-of-way or place, except as provided in this part.

(2) In the event of construction, driveway, hillside, yard or other erosion and/or any other prohibited deposit of debris or material whether caused naturally or by the act of any person as referenced above shall occur, the owner, tenant, contractor or such other person, corporation or entity controlling said real estate shall take such measures as are necessary to:

(a) Control and prohibit future and further erosion onto the city streets, sidewalks, or public right of way or place; and

(b) Immediately cause any existing blockage, debris and/or material deposited from the premises in question to be cleaned and removed therefrom.

(3) This part shall not apply to seasonal leaf raking and pick up activities.

(4) Boxes, barrels, merchandise, other articles. It shall be unlawful for any person to obstruct the streets or sidewalks with boxes, barrels, machinery, agricultural implements, etc., except when receiving and forwarding goods, wares and merchandise, and then only for a reasonable time.

(5) Leaving wood, lumber on sidewalks. It shall be unlawful for any person to throw and leave, or permit to be thrown and left, for more than an hour, wood or lumber of any kind on any sidewalk in the city.

(6) Dumping earth, building debris on streets. It shall be unlawful for any person to dump or deposit upon any paved street in the city or cause the same to be done, any earth, mortar or builder's rubbish of any kind intended to be conveyed from the street, until means of transportation have been procured for the removal of the same, and in no case shall it be allowed to remain upon the pavement for a longer period than five (5) hours.

(7) Building materials on streets. (a) The portion of any street in the city which may be occupied by the material necessary for a building in course of construction, alteration or repair shall not exceed the dimensions of the front of the premises being built upon, and twelve and one-half (12 1/2) feet in addition on each side and shall not exceed

one-third (1/3) of the street in breadth. Such occupation of a street shall not be prolonged an unreasonable period. All brick shall be properly stacked when deposited in the street and sufficient way shall be left unencumbered at all times between such building material and the curbstone on the side of the street opposite the building for the passage of vehicles.

(b) No material shall be placed within four (4) feet of the tracks of any railroad or of any fire cistern, fireplug, pump or manhole for any sewer or conduit system or crossing, or within twelve (12) inches of any curbstone unless provision is made for the free passage of water in the gutters. A sufficient unobstructed passageway for traffic shall be maintained at all times along the street. Where it is possible so to do, as soon as any building is up to the sidewalk grade the sidewalk shall immediately be constructed and a sufficient passageway kept open at all times over the same.

(8) Protection of streets, sidewalks on which deposits made. Any person, before depositing upon the paving of any street or sidewalk any earth, mortar or other material calculated to injure the structure or appearance of the pavement in any way, shall first lay upon the pavement such covering as may be required by the department of public works, streets and airports, of such dimensions as may be necessary to protect the surface without unnecessarily blocking the roadway or otherwise interfering with traffic.

(9) To be lighted at night. (a) It shall be unlawful for any person to place or leave any material or obstruction of any kind on the streets or sidewalks of the city at night without placing thereon a sufficient number of red lights or flares to warn all persons before reaching such obstruction that there is danger and that the street is obstructed.

(b) This section shall be construed to apply to all kinds and types of materials for constructing buildings and other structures, railroads and tracks and to rails, boxes, poles, wires, bricks, mortar, plank, sand and any other things that prevents the street or sidewalk from being clear and free from obstructions.

(c) All persons so obstructing the street or sidewalk including any contractor or his employee in charge of the obstruction shall see to it that this section is fully complied with, and that such red lights or flares are placed on such obstruction at twilight each night and kept burning until daylight.

(10) Liability for failure to light. When any person neglects to comply with § 16-416(9) and an accident results by reason of such negligence causing damage, the person whose negligence caused the accident shall be held responsible therefor, and if the city is required to pay out any money as damages therefor, the city attorney shall prosecute the offender and bring an action against him to recover any damages that the city may have sustained by reason of his failure to comply.

(11) Permit required to obstruct street, sidewalks or gutters; issuance. It shall be unlawful for any person to obstruct any street, gutter or sidewalk in the city by placing or allowing therein any material, or by constructing or placing therein any bridge, material or covering which may constitute an obstruction thereof, except for temporary use and for a specific period to be set forth in a permit issued therefor by the city manager. The issuance of such permit shall be at the discretion of the city manager, who may impose such restrictions and requirements, as a condition precedent to the issuance of such permit, as the interest of the public may, in his opinion, require. In addition to any other condition the permit fee therefor shall be $50.00.

(12) Obstruction to be removed when permit expires. Any person to whom a permit has been issued as provided in section (11) shall remove such material on or before the expiration of the period stated in such permit.

(13) Removal of unauthorized obstructions. The public works department may remove, without notice to the person responsible therefor, any unauthorized obstructions referred to in section (12) of this chapter or obstructions which may have been left after the expiration of the time limit fixed in the permit therefor.

(14) Any violation of any of the subparts of this chapter shall render the person or entity responsible therefor liable to fine and citation under the general penal provisions of this code. Each day of continued violation shall constitute a separate offense. Nothing contained herein shall be construed to constitute a waiver by the city of any other civil remedies it may have, and in addition to all other methods of enforcement authorized or described herein, the city shall have the right to correct any violation hereof by making the installations necessary, or by correcting any obstruction, construction, reconstruction, or alteration so as to make the same comply with the provisions of this chapter, and shall have the right to recover from the offending party, including the owner of the property and any lessee, tenant, contractor or subcontractor, the actual amount expended by the city in correcting the violation or bringing the construction into conformity with the provisions of this chapter. The amounts expended by the city hereunder shall be and constitute a lien upon such lot or property, and may be enforced either at law or in equity by all lawful means for the enforcement of such liens, or may be recovered by suit at law or in equity against the offending party. (1975 Code, § 12-415)

16-117. Tampering with construction signs and barricades; travel on closed roads. (1) Definitions. (a) "Barricade" means a barrier for obstructing the passage of motor vehicle traffic.

(b) "Detour sign" means any sign placed across or on a public road of the state, the county or a municipal authority, or by their contractors, indicating that such road is closed or partially closed, which sign also indicates the direction of an alternate route to be followed to give access to certain points.

(c) "Fence" means a barrier to prevent the intrusion of motor vehicle traffic.

(d) "Officially closed" means a highway or road that has been officially closed by a governmental unit, the Department of Transportation, or the city governmental unit, including the county.

(e) "Warning sign" means a sign indicating construction work in the area.

(2) It shall be unlawful for any person in the city to intentionally:

(a) Destroy, knock down, remove, deface or alter any lighting flasher letter or figures on a detour or warning sign set upon a highway or road in the City of Chattanooga.

(b) Knock down, remove, rearrange, destroy, deface or alter any letter or figures on a barricade or fence erected on any highway or road located in the city.

(c) Drive around or through any barricade or fence on any officially closed highway or road located in the city.

(d) To drive around such detour sign or barricade or fence or ignore or disregard a warning sign before such road has been officially opened to public traffic by the Tennessee Department of Transportation or by the county or by a municipal officer of the agency, division, department or officer responsible for constructing or maintaining such roads.

Any violation of this section shall, upon conviction, be punishable by a fine of up to $500.00 and/or incarceration of up to 11 months and 29 days, or both, unless a lesser fine or a lesser period of incarceration be specified for any such offenses which may also be an offense against the laws of the State of Tennessee, in which event such lesser fine and/or such lesser period of incarceration shall be controlling. (Ord. #95-696, Oct. 1995, as amended by Ord. #95-703, Nov. 1995)

CHAPTER 2

EXCAVATIONS[1]

SECTION

16-201. Short title.
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16-206. Manner of excavating -- barricades and lights.
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16-209. Liability and responsibility for repair.
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16-217. Sidewalk excavations.
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16-219. Damage to existing improvements.
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16-222. Protection of water courses.
16-223. Breaking through pavement.
16-224. Restoration of surface.
16-225. City's right to restore surface.
16-226. Trenches in pipe laying.
16-227. Emergency action.
16-228. Noise, dust and debris.
16-229. Excavations barred in new street improvements.

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[1]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).

Ordinances #99-789, July 1999, and 12-969, March 2012, (on file in the office of the city recorder) amended, replaced and/or deleted many of the original sections of this chapter.

16-230. Preservation of monuments.
16-231. Maintain drawings.
16-232. Chapter not applicable to city work.
16-233. Liability of city.
16-234. Penalty.

16-201. Short title. This chapter shall be known and may be cited as "Street Excavation and Restoration of Paving Procedures Ordinance." (1975 Code, § 12-101, as amended by Ord. #12-969, March 2012)

16-202. Definitions. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Applicant" is any person making written application to the city manager for an excavation permit hereunder.

(2) "Building official" the person designated by the city manager who shall serve as the supervisor for the inspection or in his or her absence, the subordinate assigned or delegated direct responsibility for the administration of this chapter.

(3) "City" is the City of Red Bank, Tennessee.

(4) "City commission" or "Commission" is the City Commission of the City of Red Bank, Tennessee.

(5) "City inspector" a person employed or otherwise engaged by the city and acting under the authority of the city manager to physically inspect any excavation for conformity with the permit and other provisions of this chapter.

(6) "City manager" is the city manager of the City of Red Bank, Tennessee.

(7) "Emergency" a sudden or unexpected occurrence or condition calling for immediate action. The repair of a broken or malfunctioning utility line or services shall be deemed an emergency if a repair is reasonably warranted under existing circumstances prior to the next working day.

(8) "Excavation" any excavation or tunneling of any public street right-of-way including, but not limited to, excavation in, cutting of, or tunneling of any street, sidewalk or curb for purposes of constructing or maintaining pipes, lines, driveways, private streets, poles, guy wires, signs, or other utilities, private structures, or facilities.

(9) "Excavation work" is the excavation and other work permitted under an excavation permit and required to be performed under this chapter.

(10) "Permittee" is any person who has been granted and has in full force and effect an excavation permit issued hereunder.

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

(12) "Street" is any street, highway, sidewalk, alley, avenue, or other public way or public ground in the city.

(13) "Working day" any day when the city office is open for the transaction of normal business. (1975 Code, § 12-102, as amended by Ord. #12-969, March 2012)

16-203. Permit required. It shall be unlawful for any person to make any excavation in or to tunnel under any street, curb, alley, or public right-of-way in the city without first having obtained a permit from the building official or his designees and complying with the provisions of this chapter. It shall be unlawful to violate or to vary from the terms of any such permit; provided, however, any person maintaining pipes, lines, driveways, or other facilities in or under the surface of any public right-of-way may proceed with an excavation without a permit when emergency circumstances demand the work to be done immediately, and provided further that the person shall apply for a permit on the next working day and shall otherwise and immediately thereafter comply with all other provisions of this chapter. (1975 Code, § 12-103, as replaced by Ord. #12-969, March 2012)

16-204. Applications. (1) Applications for such permits shall be made to the building official and shall state thereon the location/address of the intended excavation or tunnel, the size thereof, the purpose thereof, the name of the person doing the actual excavating, and the name of the person for whom the work is being done. The application form shall contain a contractual undertaking and guaranty on the part of the applicant and, the permittee, if the permittee will comply with all the terms and provisions of this chapter and all other conditions imposed by the city with respect to the permit, whether or not the same be expressed verbatim on the face of the permit. The application shall further contain a contractual undertaking and guaranty on the part of the applicant and permittee, if the applicant and permittee, if different from the applicant, does not comply with the terms, provisions and conditions set forth, the applicant and/or permittee shall be financially liable to the city for the cost of all repairs and/or corrections made by the city and/or by its subcontractors and for all damages incurred by the city occasioned by such failure to comply. Said application shall also provide that the applicant shall guarantee the integrity of the work performed for a period of twenty-four (24) months from the date upon which the refilled excavation is accepted by the city manager or his designee.

(2) The applicant shall disclose any foreseeable lane or sidewalk closures or detours during excavation. As a condition of issuing a permit, all applicants must agree in writing as part of the application to comply with all ordinances and laws relating to the work to be done. The building official or his

designee shall consider each application for a permit filed under this article, under all facts and circumstances shall grant or refuse the permit within five (5) working days and shall endorse his action on the application. The action of the building official in granting or refusing a permit shall be final, except as it may be subject to review at law. A permit may be refused for the following reasons:

(a) The proposed excavation should be redesigned to mitigate a potential safety hazard;

(b) The proposed excavation should be redesigned to mitigate damage within the right-of-way;

(c) The proposed excavation cannot be safely made in the public right-of-way;

(d) The proposed restoration plan does not meet the minimum standards for restoration;

(e) The applicant has willfully failed to comply with conditions of prior permits issued to the applicant; provided that such disqualification shall be removed upon correction of any such defects;

(f) For failure to satisfactorily comply with any one or more of the terms, provisions or conditions of this chapter;

(g) For other good cause in the discretion of the building official.

Provided that as to an excavation done in emergency circumstances the application shall be completed on the next working day; and the building official or his designees shall review the actual work completed for conformity with the requirements hereof. (1975 Code, § 12-104, as amended by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-205. <u>Application and excavation permit fee</u>. Each application shall be accompanied by a fee, established initially, as follows:

(1) Permit fee of two hundred fifty dollars ($250.00) for transverse cuts in pavement, subject to the provisions of subsection (11), below.

(2) For longitudinal cuts in pavement the permit fee of one dollar ($1.00) per foot shall be charged (two hundred fifty dollars ($250.00) minimum), subject to the provisions of subsection (11), below.

(3) Permit fee of fifty dollars ($50.00) for cuts in the sidewalk, subject to the provisions of subsection (11), below.

(4) Permit fee of one hundred dollars ($100.00) for cuts in the curb and/or curb and gutter, subject to the provisions of subsection (11), below.

(5) Street cut permit is not required for cuts outside the sidewalk and street pavement.

(6) Written notification of intent to work in a city right-of-way must be received at least twenty-four (24) hours prior to beginning work, even if a permit is not required, except in emergencies. E-mail is considered a written notice.

(7) Permits for relocation or installation of fire hydrants will be required when requested by the city, but no fee (including administrative fees) will be required.

(8) Multiple cuts, each not exceeding twenty-five (25) square feet in area, when required in a single block or within a work zone distance of two hundred fifty feet (250') as part of a single project, are considered as one (1) cut. Permit and fee will be required for a single cut under these conditions. If the cut exceeds two hundred fifty feet (250'), or multiple cuts within a block or a work zone greater than two hundred fifty feet (250'), then the entire lane that is disturbed by construction shall be repaved from intersection to intersection.

(9) Neither permits or fees will be required when work in the right-of-way is conducted as part of a city street improvement project, including resurfacing, where the utility is required to move their facilities as a result of the city project nor shall fees be required for routine maintenance and repairs by the Hamilton County Water and Wastewater Treatment Authority (WWTA), provided, however, that WWTA and its authorized and approved subcontractors shall nevertheless complete an application and otherwise be subject to all other provisions of this chapter. In addition, WWTA may utilize subcontractors so long as the permit is issued to WWTA and WWTA's running bond shall stand as surety for compliance with the requests of this chapter.

(10) Fees shall not be waived under any other conditions.

(11) When it is determined that non-emergency work in the city right-of-way has proceeded without the purchase of a permit, the contractor or utility shall immediately purchase a street cut permit, and the fee for the permit shall be double the normal fee; no further permits shall be issued to the contractor or utility until such time as the improper work is removed and replaced in accordance with this code and such person shall be subject to the penal provisions of this chapter and each day of such failure or violation shall constitute a separate offense.

(12) Where work in the city right-of-way is self-performed by one of the following entities, or by one of the entity's approved contractors, the fee for each permit shall be invoiced monthly. Invoicing may be provided for:

(a) Electric Power Board of Chattanooga (EPB);
(b) Tennessee-American Water Company (TAWC);
(c) Chattanooga Gas Company;
(d) AT&T;
(e) Comcast Cable Company;
(f) Hixson Utility District (HUD);
(g) Hamilton County Water and Wastewater Treatment Authority (WWTA).

(13) The amounts of all fees herein above provided may be increased from time to time by resolution of a majority of the board of commissioners without the necessity of amending the chapter, and without prior notice to any

person. (1975 Code, § 12-105, as amended by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-206. Manner of excavating -- barricades and lights. (1) Any person making any excavation or tunnel shall do so according to the specifications and standards issued by the city official. In accordance with the then currently adopted version of the *Manual on Uniform Traffic Control Devices* (MUTCD) sufficient and proper barricades, lights and other traffic control devices shall be maintained to prevent accidents and injury to persons or property. If any sidewalk is blocked, a temporary sidewalk shall be provided which shall be safe for travel and convenient for users. No work shall be done which deviates from the approved plans and until a change of plans has been secured from the building official. All expenses of such safety measures and temporary sidewalk shall be borne by the applicant or owner.

(2) The city manager shall provide each permittee at the time a permit is issued hereunder a copy of the permit which shall include the permit number and the expiration date. It shall be the duty of any permittee hereunder to keep the permit on site of the excavation work. It shall also be unlawful for any person to produce any such permit at or about any excavation not covered by such permit, or to misrepresent the number of the permit or the date of expiration of the permit. Permits shall expire after one hundred eighty (180) days and all excavation work performed must be completed within sixty (60) days of commencing. (1975 Code, § 12-106, as replaced by Ord. #12-969, March 2012)

16-207. Bond required. When permits are required to excavate or in any way obstruct any street in the city, the building official shall require from such applicant, before granting permit, a bond with good and sufficient, as may be determined from time to time by the building official, sureties acting with consent of the city manager, conditioned to secure the city against all loss, damage or injury of any kind which may result to the city by reason of such excavation or obstruction; provided, that public utilities and/or persons engaged in the business of contracting shall be allowed to giver an annual bond, instead of a bond for each obstruction such annual bond in every instance to be renewed at least once every twelve (12) months. (1975 Code, § 12-107, as amended by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-208. Manner of excavating street. (1) In excavating any street, all material for paving or ballasting must be removed with the least possible injury or loss of the same and, together with the excavated material from the trenches, must be placed where they will cause the lest possible inconvenience to the public. All pavement, where trench excavations are to be made, shall be saw cut. Cutting the street with a jackhammer or a hoe-ram is not permitted.

(2) The permittee shall carry on the work authorized by the permit in such manner as to cause a minimum of interference with traffic. He shall provide adequate warning signs and devices to warn and guide traffic, and shall place the signs and warning devices in a position of maximum effectiveness. The latest editions of the *Manual on Uniform Traffic Control Devices*, copies of which are on file in the public works department, and may be used as a guideline for proper positioning of signs and devices.

(3) Where difficult or potentially hazardous conditions exist, competent flagmen shall be provided to effect a safe and orderly movement of traffic. Where insufficient traffic lanes exist because of street openings, adequate bridging shall be supplied by the permittee. When traffic congestion occurs in spite of all precaution, the permittee shall be responsible for providing a flagman. In the event the building official shall discover any hazardous excavation or unwarranted traffic congestion where flagmen have not been provided, he shall direct the permittee to immediately post flagmen. A failure to post flagmen following a directive shall be a violation of this chapter.

(4) On main thoroughfares and in congested districts, sufficient traffic lanes shall be kept open at all times to permit substantially normal traffic flow. Unless this can be accomplished, work shall be done only during the period between 9:00 A.M. and 4:00 P.M. or between 7:00 P.M. and 7:00 A. M., as the city building official may designate.

(5) For backfill in roadway areas, the contractor shall provide six inches (6") of graded aggregate base above the utility's main line. From top of graded aggregate base backfill to bottom of paving, the backfill material shall be flowable fill with a compressive strength of 200-250 psi in forty-eight (48) hours. Flowable fill shall be placed a minimum of forty-eight (48) hours prior to the placing of the asphalt or concrete topping. Where it is impractical to use flowable fill because of terrain, slope, width of trench, or other situations, the material for the backfill in the roadway areas may be approved for cement treated aggregate base at the sole discretion of the city building official. Each eight inch (8") layer of backfill shall be thoroughly compacted by means of a mechanical tamp. Other backfill materials may be acceptable, but prior approval for the substitution shall be determined by the city building official or his designee.

(6) Backfill for trenches within the sidewalk areas shall be compacted graded aggregate base instead of loose washed stone. Each eight inch (8") layer of graded aggregate base shall be thoroughly compacted by means of mechanical tamp.

(7) If a perpendicular cut reaches the centerline of the roadway, the asphalt must be replaced from curb to curb and a minimum of ten feet (10') on each side of the centerline of the excavation. (as added by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-209. Liability and respo9nsibility for repair. (1) Any person who shall properly make any excavation or other change to the street right-of-way, and shall have same inspected by the building official or his designee and shall be relieved from any liability for any defects due to inadequate workmanship or defective materials provided the excavation shall remain free from defects for twenty-four (24) months following installation.

(2) If a contractor, utility, or other entity makes five (5) or more excavations within one (1) block of a city right-of-way or within a work zone distance of two hundred fifty feet (250') within the city right-of-way, whichever is shorter, causing disruption to any part of the pavement within two (2) years after said right-of-way has been resurfaced or constructed, said contractor, utility or other entity shall repave the entire street for the distance of the city block or two hundred fifty feet (250'), said distance being the distance utilized to require the repaving. Said repaving shall be done to the standards approved by the city building official and shall be done under the supervision and control and at the direction of the city. The contractor, utility, or other entity shall bear the entire cost of such repaving. In the event any such contractor, utility, or other entity fails to repave as required herein, then such contractor, utility or other entity shall be prohibited from acquiring any permits for additional excavations in any city right-of-way until such time as the repaving required by this section is completed and approved by the city inspector,

(3) The permit application and permit shall require, as a condition of its issuance, that the applicant and permittee, if different from the applicant, shall be responsible for all enforcement costs of the terms of the permit including attorney fees incurred by the City of Red Bank in enforcing the terms, provisions and requirements of such permit, and such application and permit form(s) shall require the signature of the applicant and permittee acknowledging and agreeing to such. (1975 Code, § 12-108, as renumbered by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-210. Inspection. It shall be the responsibility of any person granted a permit to schedule an inspection of the permit work by the city's inspector upon such conditions as may be specified in the permit. The utility or contractor making any changes to a city right-of-way, shall, at a minimum, have the following inspections performed by the city's inspector.

(1) After the repairs or installation of the new conduit or piping and before the graded aggregate base fill over the pipe has been placed;

(2) During the placement of the flowable fill or other approved fill in the sole discretion of the city inspector; and

(3) Final completion.

(4) Should inspections be required after normal working hours or on weekends, the contractor or utility making the changes to the city right-of-way, shall reimburse the city for the inspector's time at a rate to be determined in accordance with the personnel policies in effect at the time the repairs are

performed. When it is determined that improper work has been performed in the city's right-of-way, the contractor or utility responsible for the work shall remove improper work and reinstall the work in accordance with the city standards. If a permit was not obtained, the contractor or utility shall purchase a permit and the fee shall be double the normal fee. No future permits will be issued to the violating contractor or utility until the improper work has been corrected. (1975 Code, § 12-109, as renumbered by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-211. Specification. Upon issuance of each permit, the building official or his designees shall specify minimum restoration standards applicable to the permit. Provided that where the work involved is greater in scope than provided for by standard specifications as determined by the building official. The permittee shall be required to submit suitable plans of installation and street restoration for approval prior to issuance of a permit. (1975 Code, § 12-110, as renumbered by Ord. #99-789, July 1999, and replaced by Ord. #12-969, March 2012)

16-212. Insurance. Each person applying and as applicable each permittee if different from the applicant for a permit shall file a certificate of insurance (or provide other proof of insurance in form and substance to be approved by the city attorney) indicating that he is insured, or the applicant shall provide an indemnity agreement with security satisfactory to the city attorney, against claims of personal injury or property damage which may arise from or out of the performance of the work, whether such performance be by the applicant, a contractor or subcontractor, or anyone employed by him. Such insurance or indemnity agreement shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The minimum amount of the liability insurance for bodily injury shall not be in an amount less than three hundred thousand dollars ($300,000.00) for each person and one million dollars ($1,000,000.00) for each accident and for property damages in an amount not less than one hundred thousand dollars ($100,000.00), unless other higher limits are established by the Tennessee Government Tort Liability Act, in which event such higher limits shall automatically be controlling and shall then and thereafter be here applicable as the minimum acceptable limit(s) of such insurance. (as added by Ord. #12-969, March 2012)

16-213. Supervision. The building official, or his designee, shall from time to time inspect all excavations and see to the enforcement of the provisions of this chapter. The permittee shall give notice to the building official, or his designee, before refilling any such excavation or tunnel and said work may not commence until the inspector arrives at the site or otherwise gives permission to proceed. (as added by Ord. #12-969, March 2012)

16-214. Clearance for fire equipment. The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fire plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of material or other obstructions. (1975 Code, § 12-111, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-215. Protection of traffic. The permittee shall erect and maintain suitable timber barriers to confine earth from trenches or other excavations in order to encroach upon highways as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. All barricades and crossings shall be constructed subject to the approval of the city. (1975 Code, § 12-112, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-216. Removal and protection of utilities. The permittee shall not interfere with any existing utility without the written consent of the city manager and the utility company or person owning the utility. If it becomes necessary to remove an existing utility this shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timber or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along or across said work. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage. (1975 Code, § 12-113, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-217. Sidewalk excavations. Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge, over said excavation on the line of the sidewalk, which shall be subject to the approval of the city. (1975 Code, § 12-114, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-218. Care of excavated material. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians, or users of the street, and so that as little inconvenience as possible is caused to those using the street and adjoining property. (1975 Code, § 12-116, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-219. Damage to existing improvements. All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repair shall conform with the requirements of any applicable code or ordinance. If, upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the city manager shall have the authority to cause said necessary labor and materials to be furnished by the city and the cost shall be charged against the permittee, and the permittee shall also be liable on his or its bond therefor. (1975 Code, § 12-117, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-220. Property lines and easements. Property lines and limits of easements shall be indicated on the plan of excavation submitted with the application for the excavation permit and shall be the permittee's responsibility to confine excavation work within these limits. (1975 Code, § 12-118, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-221. Clean-up. As the excavation work progresses all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city manager. From time to time as may be ordered by the city manager and in any vent immediately after completion of said work, the permittee shall at his or its own expense clean up and remove all refuse and unused materials of any kind resulting from said work. Upon the failure of the permittee to clean up within twenty-four (24) hours after having been notified to do so by the city manager, the work may be done by the city manager. The cost thereof shall be charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided for herein. (1975 Code, § 12-119, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-222. Protection of water courses. The permittee shall provide for the flow of all water courses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provisions for them as the city manager may direct. The permittee stall not unreasonably obstruct the gutter of any street. He shall use all proper

measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from a failure to so provide. (1975 Code, § 12-120, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-223. Breaking through pavement. Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four (4) feet or over in depth, the pavement in the base shall be removed to at least six (6) inches beyond the outer limits of the sub-grade that is to be disturbed in order to prevent settlement, and a six (6) inch shoulder of undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement. (1975 Code, § 12-121, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-224. Restoration of surface. The permittee shall restore the surface of any street broken into or damaged, as a result of the excavation work, to its original condition in accordance with the specifications of the city. The permittee maybe required to place a temporary surface over openings made in paved traffic lanes. Except when the pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be made with suitable material well-tamped into place and this fill shall be topped with a minimum of at least one inch of a bituminous mixture which is suitable to maintain the opening in good condition until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe traveling condition until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the city. If in the judgment of the city manager it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit by reason of the looseness of the earth or weather conditions he may direct the permittee to lay a temporary pavement of wood or other suitable material designated by him over such cut or excavation to remain until such time as the repair of the original pavement may be properly made.

Permanent restoration of the street shall be made by the permittee in strict accordance with the specifications prescribed by the city to restore the street to its original and proper condition, or as near as may be.

Acceptance or approval of any excavation work by the city manager shall not prevent the city from asserting a claim against the permittee and his or its

surety under the surety bond required hereunder for incomplete or defective work if discovered within twenty-four (24) months from the completion of the excavation work. The city manager's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder. (1975 Code, § 12-123, as renumbered by Ord. #99-789, July 1999)

16-225. City's right to restore surface. If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise have failed to complete the excavation work covered by such permit, the city manager, if he deems it advisable, shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost thereof and twenty-five per cent (25%) of such cost in addition for general overhead and administrative expenses. The city shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and shall apply in payment of the amount due it any funds of the permittee deposited as herein provided and the city shall also enforce its rights under the permittee's surety bond provided pursuant to this chapter.

It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for two (2) years after restoring it to its original condition. (1975 Code, § 12-124, as renumbered by Ord. #99-789, July 1999)

16-226. Trenches in pipe laying. Except by special permission from the city manager, no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 500 feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work as prescribed by the city manager. No timber bracing, lagging, sheathing or other lumber shall be left in any trench. (1975 Code, § 12-125, as renumbered by Ord. #99-789, July 1999)

16-227. Emergency action. In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to care or remedy the dangerous condition. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the city manager's office is open for business, and shall not proceed with permanent repairs without first obtaining an

excavation permit hereunder. (1975 Code, § 12-127, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-228. Noise, dust and debris. Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and during the hours of 10:00 P.M. and 7:00 A.M. shall not use, except with the express written permission of the city manager or in case of any emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. (1975 Code, § 12-128, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-229. Excavations barred in new street improvements. Whenever the city commission enacts any ordinance or resolution providing for the paving or repaving of any street, the city manager shall promptly mail a written notice thereof to each person owning any sewer, main, conduit or other utility in or on any real property whether improved or unimproved, abutting said street. Such notice shall notify such persons that no excavation permit shall be issued for openings, cuts or excavations in said street for a period of five (5) years after the date of enactment of such ordinance or resolution. Such notice shall also notify such persons that applications for excavation permits, for work to be done prior to such paving or repaving, shall be submitted promptly in order that the work covered by the excavation permit may be completed not later than forty-five (45) days from the date of enactment of such ordinance or resolution. The city manager shall also promptly mail copies of such notice to the occupants of all houses, buildings and other structures abutting said street for their information and to state agencies and city departments or other persons that may desire to perform excavation work in said city street.

Within said forty-five (45) days every public utility company receiving notice as prescribed herein shall perform such excavation work subject to the provisions of this chapter, as may be necessary to install or repair sewers, mains, conduits or other utility installations. In the event any owner of real property abutting said street shall fail within said forty-five (45) days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all rights of such owner or his successors in interest to make openings, cuts or excavations in said street shall be forfeited for a period of five (5) years from the date of enactment of the ordinance or resolution. During said five (5) year period no excavation permit shall be issued to open, cut or excavate in said street unless in the judgment of the city manager, an emergency as described in this chapter exists which makes it absolutely essential that the excavation permit be issued.

Every city department or official charged with responsibility for any work that may necessitate any opening, cut or excavation in said street is directed to take appropriate measures to perform such excavation work within said forty-five (45) day period so as to avoid the necessity for making any openings, cuts or excavation in the new pavement in said city street during said five (5) year period. (1975 Code, § 12-129, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-230. Preservation of monuments. The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until ordered to do so by the city manager. (1975 Code, § 12-130, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-231. Maintain drawings. Users of sub-surface street space shall maintain accurate drawings, plans, and profiles showing the location and character of all underground structures including abandoned installations. Corrected maps, satisfactory to the city manager, shall be filed with the city within six (6) months after new installations, changes or replacements are made. (1975 Code, § 12-132, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-232. Chapter not applicable to city work. The provisions of this chapter shall not be applicable to any excavation work under the direction of competent city authorities by employees of the city or by any contractor of the city, performing work for and in behalf of the city necessitating openings or excavations in streets. (1975 Code, § 12-133, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-233. Liability of city. This chapter shall not be construed as imposing upon the city or any official or employee thereof any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the city or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. (1975 Code, § 12-136, as renumbered by Ord. #99-789, July 1999, and Ord. #12-969, March 2012)

16-234. Penalty. Any person, firm, corporation, entity and/or utility violating any of the provisions of this chapter shall be liable to a fine in the amount of not to exceed $50.00 per day, with each day that said condition or occurrence remains uncomplied with and/or unremedied constituting a separate offense. (as added by Ord. #99-796, Oct. 1999, and Ord. #12-969, March 2012)

CHAPTER 3

DRIVEWAYS AND DRAINAGE

SECTION

16-301. Definitions.
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16-303. When permit required.
16-304. Prerequisites for driveway permit.
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16-306. When installation of drainage carriers may be required.
16-307. Driveway requirements.
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16-309. Drainage tile to be furnished by or at expense of property owner.
16-310. Refusal of property owner to make required installations.
16-311. Enforcement.

16-301. Definitions. Wherever used in this chapter, the following terms shall have the meanings ascribed to them in this section, to-wit:

(1) "Driveway." Any point of entrance from any street or highway in the city into the private property of any individual, person, firm or corporation, including sidewalks, driveways, and paths whether paved or unpaved.

(2) "Permit." A permit duly issued by the city manager of the City of Red Bank, Tennessee, authorizing the construction, reconstruction or improvement of any driveway as herein defined. (1975 Code, § 12-201)

16-302. Purpose of chapter. The purpose of this chapter is to regulate the construction of driveways as herein defined so as to prevent insofar as possible the drainage of water and debris into the streets of the city, and the resulting deterioration and damage to said streets, and to require proper and adequate drainage along such streets where necessary to prevent damage. (1975 Code, § 12-202)

16-303. When permit required. No person shall construct, reconstruct, improve, alter or change any driveway entering or departing from a municipal street, nor shall any person install any tile or pipe for drainage purposes along any street, whether upon the street right-of-way or upon the private property adjoining the street right-of-way without first obtaining therefor a municipal permit. (1975 Code, § 12-203)

16-304. Prerequisites for driveway permit. Any person desiring to construct, reconstruct, improve, alter or change any driveway within the corporate limits shall apply to the city manager for a permit to do so, which application shall be made upon forms supplied by the city. In addition to the

information required upon the application, the applicant shall submit a map, sketch or drawing, showing the following information:

(1) Number of lineal feet of contact between the driveway and the street.

(2) The type of drainage under the driveway, and the size of tile, if any, to be used.

(3) The amount of variation in elevation between the driveway and the street.

(4) Wherever the elevation of the driveway is higher than the street, the per cent of grade of the driveway along its entire length.

(5) Such other information as may be required by rules promulgated by the city manager. (1975 Code, § 12-204)

16-305. Prerequisites for drainage carrier installation permit. Any person desiring to install drainage tile or other carriers of water in any drainage ditch along any public street, whether such ditch be located upon the street right-of-way, or upon the private property of any individual, shall make application to the city manager, upon forms provided by the city, for a permit to do so. In addition to the information required upon the application, the applicant shall submit a map, sketch or drawing showing the following information:

(1) The number of lineal feet of tile or other drainage carrier to be installed.

(2) The type and size of tile or drainage carrier.

(3) Such other information as may be required by rules promulgated by the city manager, including a profile of the ditch showing the elevation or grade at all material points, if deemed necessary. (1975 Code, § 12-205)

16-306. When installation of drainage carriers may be required. The city manager, whenever he deems it necessary for the protection of the streets of the city, may require the owner of any lot or any part of a lot in the city adjoining any public street to install tiles or other carriers of water in the drainage ditch at any point where a driveway enters the street from such lot. Such tiles shall be of a size and material prescribed by the city manager. (1975 Code, § 12-206)

16-307. Driveway requirements. No driveway shall be constructed, reconstructed, improved, altered or changed unless it shall conform to the following requirements:

(1) The driveway shall not extend beyond the property line between the street and the private property adjoining.

(2) The drive shall be so constructed that no point at the entrance thereof to the street shall be higher than the highest point nor lower than the lowest point in the paved portion of the street upon which it abuts.

(3) Each such driveway shall have installed, at the point where it adjoins the street right-of-way, a grating, and the driveway shall be so constructed that all water draining therefrom shall drain into this grating. Provided, however, that this sub-section shall not apply to any driveway where the grade of the driveway does not exceed five per cent (5%) at any point. (1975 Code, § 12-207)

16-308. City manager to promulgate rules and regulations. The city manager shall promulgate, or cause to be promulgated, rules and regulations governing construction, reconstruction, improvement, alteration, or changing of driveways abutting upon municipal streets, and the installation of tile or other carriers of water in any drainage ditch herein above referred to. (1975 Code, § 12-208)

16-309. Drainage tile to be furnished by or at expense of property owner. With regard to the installation of tile, the property owner may, at his option, furnish the tile required, which tile will be installed by the city at no cost to the property owner, or, in the alternative, the property owner may request the city to both furnish and install the tile, in which event the property owner shall be indebted to the city for the actual cost of the tile installed, excluding labor. (1975 Code, § 12-209)

16-310. Refusal of property owner to make required installations. Whenever in the discretion of the city manager it is necessary to install tile in any drainage ditch in this city to effect the purposes of this chapter, the city recorder shall give the owner of the abutting lot or lots written notice specifically setting forth the work to be done, and the length of time in which same must be done, provided that the time fixed thereby shall not be less than thirty (30) days. If the owner of said lot or lots shall fail or refuse to build or install said tiles or other carriers of water within the time required by such notice, and in conformity with the provisions of this chapter and the rules and regulations adopted by the city manager, the city may do the work with city employees and equipment, or may contract for doing the same and pay the cost thereof out of the street fund. In the event the work is done in this manner, all mounts paid by the city for materials only shall be a lien upon such lot or property and may be enforced by attachment at law or in equity or in any other manner provided by law, or the amount may be recovered against said owner or owners by suit before any court of competent jurisdiction, and the city attorney is authorized to proceed to enforce the lien declared and fixed by law under this chapter. (1975 Code, § 12-210)

16-311. Enforcement. In addition to all other methods of enforcement authorized or described herein, the city shall have the right to correct any violation hereof by making the installations necessary, or by correcting any

construction, reconstruction, or alteration so as to make the same comply with the provisions of this chapter, and shall have the right to recover from the offending party, including the owner of the property and any lessee, tenant, contractor or subcontractor, the actual amount expended by the city in correcting the violation or bringing the construction into conformity with the provisions of this chapter. The amounts expended by the city hereunder shall be and constitute a lien upon such lot or property, and may to enforced either at law or in equity by all lawful means for the enforcement of such liens, or may be recovered by suit at law or in equity against the offending party. (1975 Code, § 12-211)

TITLE 17

REFUSE AND TRASH DISPOSAL[1]

CHAPTER
1. REFUSE AND ANTI-LITTER REGULATIONS.
2. RESIDENTIAL GARBAGE SERVICE USER FEE.

CHAPTER 1

REFUSE AND ANTI-LITTER REGULATIONS

SECTION
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17-101. Definitions. For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(1) "Abandoned motor vehicle." A motor vehicle which:

(a) Is over four years old and is left unattended on public property for more than thirty (30) days; or,

(b) Has remained illegally on public property for a period of more than forty-eight (48) hours; or

(c) Has remained on private property without the consent of the owner or person in control of the property for more than forty-eight (48) hours; or,

(d) A motor vehicle which does not bear a current vehicle registration and

(i) Has one or more parts missing required for normal operation; and

(ii) Presents a possible habitat for disease-bearing rodents; and

(iii) Which has remained in the same location for not less than sixty (60) days.

(2) "Commercial handbill." Any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, original or copies of any matter of literature:

(a) Which advertises for sale any merchandise, products, commodity, service, or thing; or

(b) Which directs attention to any business, mercantile or commercial establishment or other activity, for the purpose of either directly or indirectly prompting the interests thereof by sales; or

(c) Which directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply when an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order; provided, that nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind without a license where such license is or may be required by any law of this state or under this code or under any other ordinance of this city; or

(d) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(3) "Dumpster." A container for the temporary storage of garbage, trash, and litter designed to hold one or more cubic yards of waste, and to be emptied by specially designed and fitted vehicles for that purpose.

(4) "Garbage." Any and all dead animals of less than ten (10) pounds in weight, except those slaughtered for human consumption; every accumulation of waste, (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage of, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grain or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable wastes, animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definitions of both wastes, construction debris, dead animals, hazardous wastes, rubbish or stable material.

(5) "Litter." "Garbage," "refuse," and "trash" as defined in this section, and all other waste material which, if thrown or deposited as herein prohibited, would tend to create a danger to the public health, safety and welfare.

(6) "Newspaper." Any newspaper of general circulation, as defined by general law; any newspaper duly entered with the post office department of the United States in accordance with federal statute or regulation; and any newspaper filed and recorded with any recording officer, as provided by general law; and, in addition thereto, such term shall mean and include any periodical or current magazine regularly published with not less than four (4) issues each year and sold to the public.

(7) "Noncommercial handbill." Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine,

paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

(8) "Park." A park, reservation, playground, beach, recreation center, or any other public area in the city owned or used by the city and devoted to active or passive recreation.

(9) "Private premises." Any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging or appurtenant to such dwelling, house, building, or other structure.

(10) "Public place." Any and all streets, sidewalks, boulevards, alleys, or other public ways and any and all public parks, square, spaces, grounds, and buildings.

(11) "Refuse." This term shall refer to residential refuse and bulky wastes, construction debris and stable matter, generated at a residential unit, unless the context otherwise requires.

(12) "Trash/bulky wastes." Stoves, refrigerators, water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals, hazardous wastes or stable matter with weights or volumes greater than those allowed for containers.

(13) "Vehicle." Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(14) "Vegetative overgrowth." Any and all uncultivated vegetative growth exceeding a height of eighteen inches (18") as measured vertically from the surface of the ground, and covering a continuous area of 400 square feet, or 25% whichever is less, of that portion of any lot, tract, or parcel of land which is not occupied by buildings, or other structure, or trees.

(15) "Weeds." All rank vegetative growth, including kudzu, poison ivy, plants of obnoxious odor, weeds and grasses causing hay fever or those which serve as a breeding place for mosquitoes and other unhealthy or undesirable insects, or as a refuge for snakes, rats or other rodents, or as a hiding place for filth, litter or trash, or that create a fire or traffic hazard, or provide a hiding place for persons.

(16) "Residential refuse." All garbage and refuse generated by a producer at a residential unit and/or a small commercial unit.

(17) "Rubbish." All waste wood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible wastes, pulp and other products such as are used for packaging or wrapping crockery and glass, ashes, cinders, floor sweepings, glass,

mineral or metallic substances, and any and all other waste materials not included in the definition of bulky wastes, construction debris, dead animals, all garbage, hazardous wastes, or stable material.

(18) "Stable matter." All manure and other wastes normally accumulated in or about a stable, or any animal, livestock or poultry enclosures, and resulting from the keeping of animals, poultry or livestock.

(19) "Commercial refuse." This term shall refer to refuse generated by a commercial unit.

(20) "Commercial unit." All premises, locations or entities, public or private, requiring garbage or refuse collection which are not within the definition of a residential unit or a small commercial unit.

(21) "Commercial producer." An occupant of a commercial unit who generates refuse.

(22) "Apartment complexes." All apartment complexes or multifamily housing developments, (exclusive of condominium developments where the separate housing units are individually owned), which have or consist of multiple dwelling units, whether contiguous or not. Each sub-unit of an apartment complex or multifamily housing developments shall be considered to be a separate "residential unit."

(23) "Residential unit." A dwelling, including individually owned condominium units, within the corporate limits of the city occupied by a person or a group of persons comprising not more than one (1) family. A residential unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. Apartment dwelling(s) and multifamily housing developments, whether single or multi-level construction, of contiguous or separate single family dwelling units shall be treated as several and separate residential units, each apartment being a separate sub-unit, for the purposes of this chapter. A "small commercial unit" shall consist of a premises, location or entity, public or private, requiring refuse collection within the corporate limits of the city which does not generate, on a sub-unit basis in the case of multi-unit small commercial units, more than one hundred ninety-two (192) gallons of waste or garbage for any sub-unit located therein within any seven day period and as to which all of the refuse, garbage, etc., generated thereby on a weekly basis will fit into no more than two (2) ninety-six (96) gallon containers provided for and owned by the City of Red Bank for collection. For the purposes of this chapter a small commercial unit shall be defined to be and treated as a "residential unit." (1975 Code, § 8-101, as amended by Ord. #02-851, June 2002; and Ord. #02-859, Sept. 2002)

17-102. <u>Storage of garbage, trash and litter; accumulations prohibited</u>. Each and every occupant of a residence, residential unit, business, commercial operation, or manufacturing establishment, shall provide and keep covered an adequate number of refuse and litter containers or receptacles. It shall be unlawful for any person to accumulate, or permit to accumulate, upon

any premises in the city, any garbage, refuse, or trash of any kind, other than necessary accumulations preparatory to removal and disposal. (1975 Code, § 8-102)

17-103. Garbage and trash pick-up restricted to public streets--exceptions. The city shall cause to be picked up residential refuse and bulky wastes only from a residential unit and small commercial units as defined herein, and shall not be engaged in the pick-up of refuse, trash, garbage or other litter accumulation from any commercial unit as otherwise defined herein. The city shall not cause to be picked up any residential refuse or bulky wastes unless, in accordance with and subject to all of the provisions and restrictions of this chapter, such residential refuse or bulky waste is placed for pick-up along, and upon property immediately abutting upon, a public street or highway. The owners or occupants of residential units not fronting upon a public street or highway shall be required to deposit their trash or garbage along a public street or highway in containers approved by and supplied by the city or, alternatively, prepared for pick-up, in accordance with the other provisions of this chapter. (1975 Code, § 8-103, as replaced by Ord. #02-851, June 2002, and Ord. #02-859, Sept. 2002)

17-104. Vehicles restricted to public streets--exceptions. Except for those vehicles engaged in picking up, and servicing, dumpsters, vehicles of the department of sanitation, or department of streets, shall not travel upon private roads, rights-of-ways, or easements for the purpose of picking up garbage or trash. (1975 Code, § 8-104)

17-105. Dumpsters permitted--regulations. Any commercial, business, industrial, or multi-family residential, apartment complex or condominium development user may elect to provide a dumpster for the accumulation and storage of garbage or trash in connection with such operation. Any such user which does not qualify as a "small commercial unit" or any "small commercial unit" whose garbage for any pick-up from any of the sub-units thereof exceeds two (2) garbage receptacles of the type specified in § 17-107 per each sub-unit of the "small commercial unit" shall be required to provide a dumpster for pick-ups. Additionally, the city manager may, in his or her discretion, determine that because of the configuration of any particular apartment complex or multifamily housing development, or any small commercial unit, that it is not feasible for the city to provide receptacles and/or to pick up residential refuse; in either event, such apartment complex, small commercial unit or multi-family housing development shall be required to have a dumpster, and such dumpster provided shall meet all specifications promulgated by the city manager; shall be so placed as to be readily accessible to any independent contractor's vehicles for pick-up and emptying; shall be so placed and secured, as to provide the minimum risk of tilting or turning over,

and causing injury or damage to persons or property. The city shall not be engaged in garbage, refuse and trash pick-ups from commercial units which do not qualify as a "small commercial unit." (1975 Code, § 8-105, as replaced by Ord. #02-859, Sept. 2002)

17-106. Unlawful disposition of garbage, trash and litter. It shall be unlawful for any person to dump or place on any premises or waterway in the city limits any garbage or other waste, vegetable or animal matter, or to place or throw any litter upon any street, sidewalks, public or private property in the city. (1975 Code, § 8-109)

17-107. City approved and furnished receptacles required; no unapproved containers, excess accumulations. (1) The city shall provide for use by each residential user a container in which all residential refuse, garbage or litter must be placed for pick up and disposition. The approved container shall be furnished by and is to remain the property of the city. It is unlawful for any residential unit or user to place refuse and/or litter or any other materials not specifically otherwise provided for herein out for collection unless such garbage, refuse, litter, or other specifically provided for materials are placed in the containers provided by the city. No plastic bags, unapproved garbage or rubbish cans or containers shall be picked up or disposed of by the city and no user shall allow garbage, refuse or trash to accumulate on any premises owned, occupied or controlled by such person or entity.

(2) It shall be the responsibility of the residential user to independently and lawfully dispose of garbage, trash, and refuse which shall not fit into the city approved and supplied containers at such user's own expense and the same shall not be placed curbside for collection by the city unless enclosed in the city provided and approved container.

(3) Residential unit and/or users who are unable to fit or place all the garbage, refuse or trash generated by such user into the single city approved and furnished container may request the city to provide a second (2^{nd}) or other additional city approved containers for use by such residential users. Any and all such additional city approved and furnished containers which shall be furnished and provided to a residential user shall be on condition that such unit, requesting additional container(s), shall pay monthly for a period of the availability of such additional container but for not less than six (6) months notwithstanding the actual use for a lesser period of time, for each such additional container, equal multiples of the GARBAGE SERVICE USER FEE as established by Red Bank city code § 17-201, as now enacted or as later amended. Small commercial units and/or users shall not have more than two (2) city approved and furnished containers and shall pay (for not less than six months) the GARBAGE SERVICE USER FEE for each such container.

For purposes of this subsection, liability of any such user(s) for additional containers beyond the minimum six month period shall continue on a monthly

basis until the first day of the month which is more than thirty days after written notice of the user's intention to discontinue the availability of such additional city furnished and approved containers, is received by the city.

(4) The city manager is authorized and directed to institute such notices, warnings, rules, regulations and procedures, including discontinuance of pick up service for users who fail abide by the rules, regulations, provisions and requirements of this chapter and/or who fail to pay the residential garbage service user fee, as may be from time to time necessary, appropriate or expedient to carry out the provisions of § 17-107. (1975 Code, § 8-110, as replaced by Ord. #97-762, § 1, Jan. 1998; Ord. #02-851, June 2002; and Ord. #02-859, Sept. 2002)

17-108. Restrictions on placing for collection. It shall be unlawful to accumulate and/or to place out for collection by the city on any property in the City of Red Bank, residential or otherwise, any trash, rubbish, refuse or garbage not generated by the residential user to or for whom the city approved and supplied container has been supplied for that particular residential limit. (1975 Code, § 8-112, as repealed by Ord. #99-762, § 2, Jan. 1998, and added by Ord. #02-851, June 2002)

17-109. [Reserved]. (1975 Code, § 8-113, as repealed by Ord. #99-762, § 3, Jan. 1998)

17-110. Over-filling receptacles; maximum weight. Receptacles shall not be filled higher than three (3) inches below the top of the container nor filled so as to prevent the lid thereon from closing tightly, in accordance with its design. (1975 Code, § 8-114, as replaced by Ord. #02-851, June 2002, and Ord. #02-859, Sept. 2002)

17-111. Collection days; garbage. The city manager shall designate certain days during each week on which, in conjunction with the city's contractor, residential refuse and bulky waste shall be collected and shall notify the public thereof. (1975 Code, § 8-115)

17-112. Placement of receptacles. The city manager shall cause to be determined where receptacles for materials shall be placed and shall notify the owner or occupant of the premises where such receptacle shall be placed for collection. (1975 Code, § 8-116)

17-113. Receptacles to be removed after emptied. After the garbage or refuse has been emptied out of the receptacle by the city, the owner or occupant of the premises shall remove the same from the street or sidewalk within a reasonable time on the same day. (1975 Code, § 8-117, as replaced by Ord. #99-762, § 4, Jan. 1998)

17-114. Unauthorized removal or tampering with receptacles. It shall be unlawful for any unauthorized person in the city to remove, destroy or mutilate any garbage or refuse receptacle not his own. It shall be unlawful for any unauthorized person in any manner to interfere, tamper with, or remove any receptacle placed on any streets for collection and/or to interfere, tamper with or remove any part of the contents thereof, including but not limited to the materials placed therein, whether or not placed on the streets of sidewalks of the city for removal by the city. (1975 Code, § 8-118, as replaced by Ord. #02-851, June 2002, and Ord. #02-859, Sept. 2002)

17-115. Depositing litter in public places. No person shall throw or deposit litter in or upon any street, sidewalk, or other public place within the city except in public receptacles, or in authorized private receptacles for collection. (1975 Code, § 8-119)

17-116. Accumulations of trash; procedure for having picked up; limitations. (1) Not more than three (3) time(s) or occasion(s) during the course of any one calendar year, any occupant or owner of a residential unit desiring to have the city pick up from said unit an accumulation of trash as otherwise defined herein which has been generated from or upon said residential unit, and not from any other location or as a result of or from the user's business or occupation, shall notify the city as follows:

(a) The location where said accumulation of trash is located;

(b) The date when said trash will be placed for pick up; and

(c) The number of loads, if more than one, estimated to be required to move said trash.

(2) The public works director, or designee, shall cause such accumulation to be inspected to determine if such accumulation is eligible for pick up according to the other terms, provisions, conditions and restrictions contained in this chapter and, if so, shall cause it to be picked up and disposed of. If the inspection of the public works director, or designee, shall determine that materials ineligible for collection or pick up are included within the accumulation, the owner or occupant or resident shall be notified to segregate and remove the materials ineligible for collection. The homeowner or occupant shall be responsible for removal and lawful disposal and disposition, at such person's own expense, of the materials ineligible for collection and disposal by the city as otherwise provided herein.

(3) The public works director or designee shall cause a record keeping mechanism to be established with respect to multiple requests or requests for use of such service provided for in this section. (1975 Code, § 8-120, as replaced by Ord. #97-762, § 5, Jan. 1998; Ord. #02-851, June 2002; Ord. #02-859, Sept. 2002)

17-117. Restrictions on trash pick up by the city. The city will not pick up nor cause to be picked up:

(1) Trash or debris resulting from construction (including demolition, remodeling and carpeting), alteration or demolition activities carried out upon any premises.

(2) Any trash left by professional tree trimming or landscaping operations.

(3) Trash left as a result of the removal of trees, limbs or brush by the owner or occupant of premises, unless said trees, limbs, or brush is cut to lengths not exceeding forty-eight (48") inches each.

(4) Pallets, rocks, stumps, dirt, tires, or any other item which may, in the opinion of the sanitation superintendent, cause damage to the city's trucks or equipment.

(5) Any other material, debris, etc., except as specifically provided for herein.

(6) Any petroleum based products, paint, paint cans, or residue, any materials or substance now or hereafter deemed as hazardous or otherwise hereafter regulated for dumping, disposal, or disposition by the United States or any regulatory subdivision of the United States Government, the State of Tennessee or any county or municipal authority and/or any material or substance now or hereafter prohibited or otherwise regulated by the land fill now or hereafter utilized by the city at the applicable point in time.

(7) It shall be unlawful for any resident to place out for collection any accumulation of trash, refuse or garbage which has not been generated upon the premises or which results from the carrying on of any business, vocation, occupation or other activity for profit.

Provided further, however, that nothing contained herein shall be construed to require the city to provide garbage, refuse, trash, litter, etc., collection from a commercial unit or other non-residential unit as defined herein. Proper removal of same from commercial and non-residential units shall be the responsibility of the commercial unit or non-residential unit. The methodology of removal and disposal shall be the option of such commercial or non-residential unit so long as other applicable rules, regulations and laws are abided by. (1975 Code, § 8-121, as amended by Ord. #02-851; June 2002, and Ord. #02-859, Sept. 2002)

17-118. Placement of litter in receptacles to be so as to prevent scattering. Persons placing litter in public receptacles, or in authorized private receptacles, shall do so in such manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property. (1975 Code, § 8-122)

17-119. Sweeping litter into gutters prohibited; duty to clean sidewalks. No person shall sweep into or deposit in any gutter, street, or other

public place within the city, the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property which abuts upon any sidewalk, shall keep said sidewalk in front of their premises free of litter. (1975 Code, § 8-123)

17-120. Merchants to keep sidewalks free of litter. No person owning or occupying any place of business shall sweep into or deposit in any gutter, street, or other public place within the city any accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep all sidewalks in front of their premises free of litter. (1975 Code, § 8-124)

17-121. Throwing litter from vehicles. No person, while a driver or a passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the city or upon private property. (1975 Code, § 8-125)

17-122. Vehicles; loads causing litter. No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load, contents, or litter from being blown or deposited on any street, alley, or other public place. Nor shall any person drive or move any vehicle or truck within the city, the wheels or tires of which carry into or deposit on any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind. (1975 Code, § 8-126)

17-123. Litter in parks. No person shall throw or deposit litter in any park within the city except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein. (1975 Code, § 8-127)

17-124. Litter in water courses, lakes and fountains. No person shall throw or deposit litter in any fountain, pond, lake, stream, bay, or any other body of water in a park or elsewhere within the city. (1975 Code, § 8-128)

17-125. Throwing or distributing commercial handbills in public places. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street, or other public place within the city. Nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street, or other public place within the city for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it. (1975 Code, § 8-129)

17-126. Placing handbills or newspapers on vehicles. No person shall throw or deposit any commercial or non-commercial handbill or newspaper in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge, to the receiver thereof, a non-commercial handbill or newspaper to any occupant of a vehicle who is willing to accept it. (1975 Code, § 8-130)

17-127. Depositing handbills on uninhabited or vacant premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon private premises which are temporarily or continuously uninhabited or vacant. (1975 Code, § 8-131)

17-128. Distributing handbills at private premises. (1) No person shall throw, deposit, or distribute any newspaper, commercial or noncommercial handbill in or upon private premises which are inhabited, except by handling or transmitting any such handbill directly to the owner, occupant, or other person in or upon such private premises.

(2) The provisions of this section shall not apply to the distribution of mail by the United States.

(3) No person shall throw, deposit or distribute any commercial or noncommercial handbill or newspaper upon any private premises if requested by anyone thereon not to do so, or if there is placed on such premises in a conspicuous position near the entrance thereof a sign bearing the words "NO TRESPASSING," "NO PEDDLERS OR AGENTS," "NO ADVERTISEMENTS" or any similar notice, indicating in any manner that the occupants of such premises do not desire to be molested or have their right of privacy disturbed or to have any such newspapers or handbills left upon such premises.

(4) No person shall throw, deposit or distribute any commercial or noncommercial handbill or newspaper in or upon any private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted, as provided in this chapter, such person, unless requested by any one upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, deposited so as to secure or prevent its being carried or deposited by the elements upon any street, sidewalk, or other public place or upon private property and except that mailboxes may not be so used when so prohibited by federal postal law regulations.

(5) The distributor of any such commercial or noncommercial handbill and/or newspaper shall, upon being requested, orally or in writing, by an inhabitant of a particular premises, refrain from all future acts of distribution upon said premises. Said distributor, publisher or printer thereof, shall also maintain a list, which shall be open to inspection to the public, for the purpose

of ascertaining which individuals or premises have requested that such handbills and/or newspapers no longer be distributed thereon. Any further or subsequent distribution at that location or upon that particular premises shall constitute an offense under this section.

(6) If any portion of this code, section or sub-sections be declared unenforceable or unconstitutional, then, in that event, that portion only thereof which shall be considered unenforceable or unconstitutional shall be deleted herefrom and the remainder of the section and/or sub-section shall remain in full force and effect. (1975 Code, § 8-132)

17-129. Posting notices prohibited. No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any structure or building, except as may be authorized or required by law. (1975 Code, § 8-133)

17-130. Litter on occupied private property. No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property. (1975 Code, § 8-134)

17-131. Owner to maintain premises free of litter. The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection. (1975 Code, § 8-135)

17-132. Litter on vacant lots. No person shall throw or deposit litter on any open or vacant private property within the city whether owned by such person or not. (1975 Code, § 8-136)

17-133. Impounded and disposition of abandoned motor vehicles. "Abandoned motor vehicles," as defined herein, shall be impounded and disposed of by the police department in accordance with the regulations and provisions of Tennessee Code Annotated, §§ 55-16-104 through 55-16-109. (1975 Code, § 8-137)

17-134. Maintenance of public and private property. All persons owning or occupying public or private property in the City of Red Bank shall maintain the property free of any condition which may render the premises or

property to be unhealthy, unsanitary, unsightly, or unaesthetic, to the occupants thereof, the neighborhood, or the community at large.

Because they are hereby deemed to be conducive to breeding or harboring of harmful germs or to the breeding or harboring of insects, rodents, lizards, or similar undesirable living pests, and carriers of harmful germs or poisons, or to the harboring of undesirable persons of illicit activities and are in violation of the general public health, safety, welfare, and well-being, the existence of any one (1) of the following conditions on property within the City of Red Bank, shall be in violation of this section and this code:

(1) Uncontainerized garbage or uncovered garbage containers of all kinds and types.

(2) Trapped litter or any other improperly containerized solid waste.

(3) Exterior storage of junk or other unsightly materials.

(4) The existence of weeds and vegetative overgrowth.

(5) The existence, storage, or accumulation of garbage, hazardous putrescible solid wastes or rubbish.

(6) Any other condition deemed unhealthy, unsanitary, or unsightly by the city manager, or his agents. (1975 Code, § 8-138)

17-135. Inspection of public and private premises. The building inspector, code enforcement officer, or any other employee of the city designated by the city manager, may enter on and inspect any and all public and private property in the City of Red Bank, to determine by inspection that those properties are or are not free of any condition which may be in violation of the preceding section, or of any other provision of this chapter of the code. For the purpose of this duty, the inspecting officers are hereby clothed with police powers and shall be designated special officers of the city. (1975 Code, § 8-139)

17-136. Violation declared a nuisance. The maintenance of any public or private property in a condition in violation of this chapter is hereby declared to be a nuisance. (1975 Code, § 8-140)

17-137. Corrections of violations, procedures, fines, civil recovery and restitution. Upon the determination through the inspections officer that any property within the City of Red Bank is in violation of any of the provisions of this chapter, the city manager, or its duly authorized agent, may either:

(1) Issue a notice of violation, citing therein the violation(s) and a brief description(s) of the corrective action(s) required to the owner, occupant, or resident of said premises, requiring the condition(s) in violation of any provision(s) of this chapter to be immediately remedied and/or

(2) Issue an immediate citation to the city court for violation of the provision(s) of this section citing therein the code section(s) which the city manager of his duly authorized agent deems is being violated and/or

(3) Post a notice, or cause the same to be posted, in a conspicuous place on the premises that are maintained in a condition that constitutes a violation of this chapter and/or a nuisance. Such notice shall be not less than 8 ½" x 11" in size. Such notice shall call attention to the part of the premises by which the nuisance exists and shall state that the condition constituting a nuisance shall be abated by the owner, occupant, or person in control of such nuisance within ten (10) days from the date of such notice. Such notice shall further provide that if the owner, occupant or person in control of such premises fails to comply with the notice so posted, then the city manager, or his duly authorized agent, may cause such nuisance to be abated. Notice shall further state that the cost of such abatement is to be charged against the land on which the nuisance existed as a municipal lien, which lien shall be superior to all the liens except for state, county or municipal taxes and municipal special assessments, which lien may be enforced by a suit in any court of competent jurisdiction in Hamilton County, Tennessee, against the property and against the owner of said property.

(4) Upon citation to city court and a determination by the city judge or a violation of any section or sections of this chapter, the city judge, in addition to being empowered to order the owner, occupant, or resident to abate and correct the violation(s), shall also be empowered to levy and collect a fine of $50.00 for each violation of each and any section or sections of this chapter. Each day of violation of any section shall constitute a separate and continuing violation and offense and a fine of up to $50.00 may be imposed each day for each and any violation and/or continuing violation until each and any violations shall be abated and corrected by the owner, occupant, or resident of said premises. In addition to the authority of the city to bring a civil action to recover the costs of abatement, the city judge may order the costs of abatement to be paid by the offending party as restitution; provided that if the city also brings a civil action to recover the costs of abatement, any amounts of money paid as restitution shall be credited against the recovery in any such civil action. (1975 Code, § 8-141, as replaced by Ord. #02-851, June 2002, and Ord. #02-859, Sept. 2002, and amended by Ord. #03-882, Oct. 2003)

17-138. <u>Service of notice on owner or occupant</u>. A copy of the notice required by the preceding section shall be served upon the owner of the premises, or his agent, and in the event that neither the owner nor his agent can be found, the notice shall be served by leaving it with the occupant of the premises, if any. In the event the property is vacant or unimproved, or the owner, his agent, or an occupant cannot be found, then a copy of the notice shall be sent by registered mail or certified mail, return receipt requested, to the last known address of the owner or the person to whom tax notices are regularly sent, as listed in the official records of the Trustee of Hamilton County, Tennessee. (1975 Code, § 8-142)

17-139. Hearing on notice. Any owner aggrieved by the determination that a nuisance is maintained on his premises, may, within five (5) days from the date of the service of such notice, file with the city manager a request for a hearing by the board of commissioners on such determination. Upon the filing of such request, the city manager shall place the request on the agenda for the next regular board of commissioners meeting. At the hearing, the inspecting officer shall present the facts concerning the condition of the premises, and the owner thereof may present evidence and shall be entitled to be represented by counsel if he so desires. At such hearing the board shall either confirm, modify, or set aside the determination that the property constitutes a nuisance. (1975 Code, § 8-143)

17-140. Abatement by city. If, at the expiration of the time given an owner to abate a nuisance in the notice to abate, such owner has failed or refused to correct the condition complained of, such condition shall be corrected and the nuisance abated at the expense of the owner under the direction of the director of the department of public works, or his duly authorized representative. (1975 Code, § 8-144)

17-141. Collection of expenses of abatement; restitution, lien. When any nuisance has been abated as provided herein, the director of the department of public works, or his duly authorized representative, shall certify the amount of the expenses incurred in abating same to the board of commissioners, who shall direct the city attorney to bring suit by attachment or otherwise to collect the same, and the city shall have a lien on the property to secure the amount expended by it in abating such nuisance, which shall be superior to all other contractual liens. In addition to the authority of the city to bring a civil action to recover the costs of abatement, the city judge may order the costs of abatement to be paid by the offending party as restitution; provided that if the city also brings a civil action to recover the costs of abatement, any amounts of money paid as restitution shall be credited against the recovery in any such civil action. (1975 Code, § 8-145, as amended by Ord. #03-880, Oct. 2003)

17-142. Failure to receive notices--effect. The fact that any person entitled to notice hereunder did not receive any such notice shall not affect the validity of any proceedings taken hereunder, so long as the procedures for giving notice herein provided have been followed. (1975 Code, § 8-146)

17-143. Remedies not exclusive. The remedies herein set out shall not be deemed exclusive, and the city may pursue any other remedies available to it in law or in equity, including, but not limited to, injunction or prosecution for ordinance or code violations. (1975 Code, § 8-147)

CHAPTER 2

RESIDENTIAL GARBAGE SERVICE USER FEE

SECTION

17-201. Fee established; definition; collection rules and regulations.

17-201. Fee established; definition; collection rules and regulations. (1) There is hereby established a garbage service user fee (hereinafter GSF) to be charged and collected from each residential unit and small commercial unit (as defined) in the City of Red Bank on a monthly basis.

(2) A residential unit is defined, for the purposes of this section, as a dwelling within the corporate limits of the city occupied by a person or group of persons comprising not more than one (1) family. A residential unit shall be deemed to be occupied when either water or domestic light or power or natural gas services are being supplied thereto, condominium dwellings, whether single or multilevel construction, consisting of six (6) or less contiguous or separate single family dwelling units shall be treated as multiple residential units for the purposes of this chapter. A small commercial unit shall consist of a premises, location or entity, public or private, requiring refuse collection within the city limits of the city which does not generate, on a per sub-unit basis, more than one hundred ninety-two (192) gallons of waste or garbage, per sub-unit, within any seven (7) day period and as to which all the refuse, garbage, etc., generated thereby on a weekly basis will fit into no more than two (2) ninety-six (96) gallon containers provided for and owned by the City of Red Bank for collection.

For the purposes of this chapter a small commercial unit shall be defined to be synonymous with "a residential unit."

(3) The GSF is established at the rate of sixteen dollars ($16.00) per month for each residential or small commercial unit, or as may be applicable for multi-unit small commercial units, sixteen dollars ($16.00) per month for each such sub-unit, for one (1) city approved and provided container.

(4) In the event that any residential units or small commercial units shall require more than one (1) city approved and provided container, the sixteen dollar ($16.00) monthly GSF for such unit(s) shall be multiplied by the number of city approved and provided containers for such unit(s) or, as may be applicable, sub-units. Provided further that no small commercial unit, or sub-unit thereof, shall be eligible for collection in the event that more than two (2) ninety-six (96) gallon containers are required.

(5) The city manager is authorized and directed to institute such collection mechanisms, rules and regulations and means as shall be deemed by the city manager to be efficient, appropriate and expedient to effect collection, including, without limitation, causing garbage collection services to be discontinued as to any residential unit(s) or small commercial unit(s) (as specifically authorized by Red Bank City Code § 17-107) who/which shall have failed to pay the GSF for any period of twenty-five (25) days or more.

(a) In addition, the city manager may invoice users in advance, monthly, or quarterly, or may utilize an outside utility billing service (under such contractual arrangements as may be available with such utility services and/or collection agencies and/or collection by an attorney-at-law). In the event delinquent accounts are turned over to a collection agency, after written notice to the property owner/user, collection costs of up to forty percent (40%) of the delinquent account may be added to such account and collected by the collection agency as a cost of collection.

(b) In the event garbage pick-up services shall have been discontinued for non-payment of the GSF, upon receipt of payment for unpaid services and before resumption of service to the location/address at issue, a fee of twenty-five dollars ($25.00) shall also be assessed to the user/owner and collected to defray the reasonable costs attendant to reestablishing service, including but not necessarily limited to data entries and delivery of the city owned receptacle to the premises. (as added by Ord. #95-708, Dec. 1995, amended by Ord. #02-852, June 2002, replaced by Ord. #07-926, June 2007, and amended by Ord. #12-977, June 2012, and Ord, #12-978, July 2012)

TITLE 18

WATER AND SEWERS[1]

CHAPTER

1. SEWAGE.
2. WASTEWATER CONTRIBUTION REGULATIONS.
3. WATER SERVICE.
4. DRAINAGE SYSTEMS.
5. STORM WATER UTILITY.
6. STORM WATER UTILITY SERVICE CHARGE.
7. STORM WATER.

CHAPTER 1

SEWAGE[2]

SECTION

18-101. Definitions.
18-102. Unsanitary disposal prohibited.
18-103. Discharge of sewage to natural outlet prohibited.
18-104. Privies, cesspools, etc., prohibited.
18-105. When connection to public sewer required.
18-106. When private sewage disposal permitted.
18-107. Permit for private system required; fee.
18-108. Inspection of private system installation.
18-109. Requirements for private systems--state public health regulations and standards adopted.
18-110. Water percolation tests required.
18-111. Discontinuance of private systems.
18-112. Operation of private systems.
18-113. Health requirements unaffected.
18-114. Connection to public sewer; permit required.
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18-116. Costs of building sewer; indemnification of city.
18-117. Separate building sewer required.
18-118. Use of old building sewers.
18-119. Building sewer regulations.
18-120. Building sewer elevation.

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[1]Municipal code references
Building, utility and housing codes: title 12.
Refuse disposal: title 17.

[2]Municipal code reference
Plumbing code: title 12, chapter 2.

18-121. Discharge of surface, rain, or groundwater to sanitary sewer prohibited; owners to maintain sewer lines.
18-122. Building sewer; connection to public sewer; clean-out required.
18-123. Building sewer; inspection required.
18-124. Building sewer excavations to be guarded, etc.
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18-138. Entry upon easements authorized.
18-139. Sewer service charges levied.
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18-144. Charges enumerated--quantity of water used.
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18-148. Consumers not to be charged sewer rental for water used for industrial, commercial purposes not discharged into city sewers.
18-149. Dumping of sewage.
18-150. Commercial dumping prohibited: penalty therefor.
18-151. Reserved.
18-152. Hearing board; powers.
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18-154. Notice of violations, procedures.
18-155. Penalty for continued violation; civil penalty.
18-156. Civil liability for violators.
18-157. Enforcement, recover of cost by lien and/or special assessment.

18-101. Definitions. Unless the context specifically indicates otherwise, the meanings of terms used herein shall be as follows:

(1) "BOD" (Denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20°C, expressed in milligrams per liter.

(2) "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

(3) "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(4) "Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(5) "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(6) "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(7) "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

(8) "Person" shall mean any individual, firm, company, association, society, corporation, or group.

(9) "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(10) "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

(11) "Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(12) "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(13) "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

(14) "Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(15) "Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(16) "Sewer" shall mean a pipe or conduit for carrying sewage.

(17) "Shall" is mandatory; "may" is permissive.

(18) "Slug" shall mean any discharge 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 concentration or flows during normal operation.

(19) "Storm drain" (sometimes termed "storm sewer") shall mean sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

(20) "Superintendent" shall mean the city manager of the City of Red Bank, Tennessee, or his authorized deputy, agent, or representative.

(21) "Suspended solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

(22) "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(23) "Hearing board" shall mean the Board of Commissioners of the City of Red Bank, Tennessee.

(24) "Residential unit" shall mean a single family dwelling, or, in the case of a duplex or multi-family dwelling, each family unit thereof.

(25) "Commercial unit" shall mean any business or commercial enterprise excluding, however, industrial units.

(26) "Industrial unit" shall mean any business unit which engages in the manufacturing, processing, or assembling of any products, and any other type of business, which by the zoning ordinance of this city is required to be located in an industrial zone.

(27) "Approved septic tank" - A water-tight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tank shall have a capacity of not less than 750 gallons and in the case of homes with more than two bedrooms, the capacity of the tank shall be in accordance with the rules and regulations described in and adopted by § 18-109 of this chapter. The discharge from the septic tank shall be disposed of in such a manner that it shall not create a nuisance on the surface of the ground, or pollute the underground water supply, and such disposal shall be in accordance with the recommendations of the health officer, as determined by acceptable soil percolation data. (1975 Code, § 8-201)

18-102. Unsanitary disposal prohibited. It shall be unlawful for any person to place, deposit, or permit to be deposited, in any unsanitary manner, on public or private property within the City of Red Bank or in any area under the jurisdiction of said city, any human or animal excrement, garbage, or other objectionable waste. (1975 Code, § 8-202)

18-103. Discharge of sewage to natural outlet prohibited. It shall be unlawful to discharge to any natural outlet within the City of Red Bank, or in any area under the jurisdiction of said city, any sewage or other polluted

waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. (1975 Code, § 8-203)

18-104. Privies, cesspools, etc., prohibited. 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. (1975 Code, § 8-204)

18-105. When connection to public sewer required. The owner of all houses, condominiums, apartments, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any public street, or right of way in which there is now located a public sanitary sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this chapter, within ninety (90) days of official notice to do so. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-205, as replaced by Ord. #97-726, March 1997, and amended by Ord. #15-1022, March 2015)

18-106. When private sewage disposal permitted. Where a public sanitary sewer is not available under the provisions of § 18-105, the building sewer shall be connected to an approved septic tank. When the city is under a state moratorium prohibiting additions to the sewer system, applicants shall not be required to connect to the public sewer until the moratorium is lifted, or relaxed by the state to specifically permit connection, at which time the applicant shall connect to the public sewer within ninety (90) days. Combined sewers are not allowed under this chapter. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-206, as replaced by Ord. #97-726, March 1997, and amended by Ord. #15-1022, March 2015)

18-107. Permit for private system required; fee. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent. A permit and inspection fee of thirty-five dollars ($35.00) shall be paid to the city for each unit, apartment, town house, condominium, residence or building or inhibited structure at the time the application is filed. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment

Authority shall control and shall supercede this/these sections. (1975 Code, § 8-207, as amended by Ord. #97-726, March 1997, and Ord. #15-1022, March 2015)

18-108. Inspection of private system installation. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice by the superintendent. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-208, as amended by Ord. #15-1022, March 2015)

18-109. Requirements for private systems--state public health regulations and standards adopted. The type, capacities, location, and layout of a private sewage disposal system shall comply with the rules, regulations and standards, adopted, promulgated and established by the Commissioner of the Tennessee Department of Health, pursuant to the provisions of TCA, § 68-221-403. Said rules, regulations, and standards, being public records, are, pursuant to the provisions of TCA, § 6-54-501, et seq., hereby adopted by reference, and made a part of this code, as fully and completely as though specifically copied herein. Pursuant to the provisions of TCA, § 6-54-502, one copy of said public records has been filed with the Recorder of the City of Red Bank, Tennessee, and is available for public use and inspection. No permit shall be issued for any private sewage disposal system employing sub-surface soil absorption facilities where the area of the lot is less than 7500 square feet. No septic tank or cess-pool shall be permitted to discharge to any natural outlet. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-209, modified, and amended by Ord. #15-1022, March 2015)

18-110. Water percolation tests required. All developers of land in the city on which it is intended to erect structures and to provide soil absorption systems for the disposal of sewage and wastewater from such structures shall conduct water percolation tests of the soil before any land preparation or construction is undertaken. Structures are defined as residences, commercial and business establishments, shopping centers, schools, apartment buildings, motels, trailer courts, coin operated laundries, coin operated automobile wash racks, or any other type activity where wastewater is generated. Such water percolation tests shall be conducted in accordance with the regulations set forth in the appendix to this chapter, which appendix is hereby adopted and made a

part of this chapter as fully and completely as though specifically copied herein.[1] To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-209.1, as amended by Ord. #15-1022, March 2015)

18-111. Discontinuance of private systems. At such time as a public sewer becomes available to a property served by a private sewage disposal system, and upon proper notice from the city, connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. The building sewer shall be connected to the public sewer within ninety (90) days after notice to the owner by the city, as set forth in § 18-105, and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-210, as amended by Ord. #15-1022, March 2015)

18-112. Operation of private systems. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-211, as amended by Ord. #15-1022, March 2015)

18-113. Health requirements unaffected. No statement contained herein shall be construed to interfere with any additional requirements that may be imposed by the health officer. (1975 Code, § 8-212)

18-114. Connection to public sewer; permit required. 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. (1975 Code, § 8-213)

18-115. Building sewer permits and fees. (1) The owner, or the owner's agent, of any residence(s), or private dwelling or public or private building, shall make application for a sewer tap and/or sewer permit on a form furnished by the city. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the city manager or his designee in conjunction with said application. Permit,

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[1]See Appendix B at the end of this municipal code.

installation, inspection fees, and costs, in accordance with the schedule hereinafter set out shall be paid to the city by the owner or his agent at the time the application is filed. No building permit and/or sewer connection permit shall issue unless and until the application is approved by the city manager or his designee, and the fees, costs and charges paid.

(2) The applicant/customer shall have the option of employing a licensed plumber approved by the city to make the actual installation or to pay the estimated wastewater system connection costs. Any such installation shall conform with city standards and specifications as amended from time to time. When the applicant furnishes the installation, through an approved and licensed plumber, a separate $150 inspection fee shall be paid to the city. The plumber shall be required to conform to all standards set by the city and to obtain a street cut permit to insure that the street is repaired properly.

(3) There shall be five classes of building sewer permits:

(a) Single family residential

(b) Multi-family residential

(c) Commercial

(d) Industrial

(e) Other and miscellaneous

(4) Fees shall be as follows:

(a) Single family residential dwellings: $732.55 plus the cost of installing the tap(s).

(b) Multi-family residential units: $732.55 for each residential unit plus the cost of installing the tap(s).

(c) Commercial: $732.55 per unit, a "unit" being defined in terms of the water consumption requirements hereinafter set forth and in the absence of a specific application, based upon the then current edition of either the Community Water System Source Book or the State of Tennessee Blue Book, plus the cost of installing the tap(s).

(d) Industrial: $2,000.00 per inch for each one (1) inch of the water meter connection size installed for water service plus the cost of installing the tap.

(e) Other and miscellaneous: (i) Tap fees for other services shall be set by the board of commissioners on an individual basis consistent with the criteria set forth herein;

(ii) Where an existing installation (tap) has already been made and the piping installed from the main to the property line, there will be no additional installation charge, accordingly the only charge will be $732.55.

(5) Using 100 gallons per day of water usuage per person and 2.5 residents per household, average residential usage is seventy-five hundred (7,500) gallons per month. Seventy-five hundred (7,500) gallons per month is established as the basic measure of usage associated with one connection or one unit. The application of all other uses are to be computed according to the above

referenced design standards which incorporated standard water consumption requirement as specified in the Commercial Water Systems Source Book or in The State of Tennessee Blue Book and as are hereinafter set forth:

Residential	100 gallons per day per person
Apartments and condominiums	100 gallons per day per person (based on the number of meters of rental units)
Schools	16 gallons per day (base upon projected enrollments)
Churches	3 gallons per person per day (based upon membership enrollment)
Civic clubs	3 gallons per person per day (based upon membership enrollment)
Hospital	300 gallons per bed per day
Nursing homes	195 gallons per bed per day
Rooming houses	100 gallons per person per day (based upon the number of roomers)
Commercial and Industrial:	
Barber shop	100 gallons per day per chair
Beauty shop	125 gallons per day per chair
Dentist office	750 gallons per day per chair
Department store	40 gallons per day per employee
Drug store	500 gallons per day
With fountain service	1500 gallons per day additional
Serving meals	50 gallons per day per seat additional
Industrial plant	30 gallons per day per employee
Laundry	5000 gallons per day
Launderette	250 gallons per day per machine
Shopping center no food	150 gallons per day per 1000 SF floor
Restaurants	20 gallons per day per seat
Motels	38 gallons per room per day
Service station	10 gallons per day per vehicle served
Theater	3 gallons per day per seat
Office building	12 gallons per day per 100 SF
Car wash	1500 gallons per day per wash rack
Physicians office	200 gallons per day per examination room

Child care center	10 gallons per day per child and adult

(6) Attached as Appendix A to this ordinance[1] is an application example for calculation and illustration purposes only.

Pursuant to interlocal agreement dated October 31, 2003, and as authorized by Tennessee Code Annotated, § 68-221-601, et seq., Tennessee Code Annotated, § 19-101, et seq. and Tennessee Code Annotated, § 5-11-113, et seq., the Hamilton County Water & Wastewater Treatment Authority assumed title, ownership and all operational authority and responsibility for the sewer collector systems and for the collection of sewage and wastewater in the City of Red Bank, Tennessee, together with the assets and property rights of the City of Red Bank of and with respect to that same topic, in and for the jurisdictional limits of the City of Red Bank, Tennessee; accordingly, all operational and regulatory authority, together with any and all authority and responsibility for the enactment and/or collection of any and all fees, permits, costs and/or charges for such items, issues, in general, or, in particular, are those enacted and enforced by Hamilton County Water & Wastewater Treatment Authority operating under its statutorily accorded authority, rights, duties and responsibilities. Provisions contained herein and in conflict with any such WWTA regulations, including but not limited to rate structures, permit requirements, permit fees, operational fees, usage fees, or other terms, provisions and requirements and civil penalties, fines and costs as set forth in subsections of the Red Bank city code are overruled and repealed and shall, in all instances, yield and be inferior to those corresponding provisions, terms, rates, requirements, rate structures, fees, fines, civil penalties, or financial enactments or requirements of any kind or nature whatsoever as determined and enforced by the WWTA. (1975 Code, § 8-214, as replaced by Ord. #97-726, March 1997, Ord. #00-805, March 2000, and Ord. #00-832, Dec. 2000, and amended by Ord. #15-1022, March 2015)

18-116. Costs of building sewer; indemnification of city. All costs and expenses incident to the installation and connection of the building sewer and the costs of all repairs to keep the service line functioning according to the specifications now or hereafter required by the city 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. (1975 Code, § 8-215, as replaced by Ord. #97-726, § A5, March 1997)

18-117. Separate building sewer required. A separate and independent building sewer shall be provided for every building. The director of public works may approve connection of more than one unit where an

[1]This attachment is available in the office of the city recorder.

easement is granted to the city and the pipe is per city standards and specifications. (1975 Code, § 8-216, as replaced by Ord. #97-726, § A6, March 1997)

18-118. Use of old building sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-217, as amended by Ord. #15-1022, March 2015)

18-119. Building sewer regulations. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-218, as amended by Ord. #15-1022, March 2015)

18-120. Building sewer elevation. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-219, as amended by Ord. #15-1022, March 2015)

18-121. Discharge of surface, rain, or groundwater to sanitary sewer prohibited; owners to maintain sewer lines. (1) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, or other sources of surface run off or ground water to the building sewer or public drain which is in turn connected directly or indirectly to a public sanitary sewer.

(2) Further, all property owners of existing service lines and properties connected to the public sanitary sewer are, and shall be, required to maintain and/or repair as necessary such service lines, service clean outs, and connections, in accordance with the plumbing code, in an air tight and/or gas tight condition so as to prohibit the unintentional or intentional infiltration and inflow of surface waters, rain water, or ground water into the public sanitary

sewer. New construction, repairs and replacements shall be pressure tested and/or inspected at the discretion of the system operator prior to being recovered. Maintenance shall include repairs or replacements of the service line(s), clean out, and all connections as deemed necessary by the city manager and/or the director of public works to meet the specifications of the city otherwise enacted. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-220, as replaced by Ord. #97-733, May 1997, and amended by Ord. #15-1022, March 2015)

18-122. Building sewer; connection to public sewer; clean-out required. (1) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code and to the specifications and applicable rules and regulations of the city hereinafter set forth, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation. In all building sewers, the property owner shall provide a clean-out located as specified in Appendix A to this subsection. No connection for public sewer shall be approved unless such a clean-out is provided and any sewer connection hereafter made without providing such a clean-out shall be dug up, and the clean-out inserted therein at the sole expense of the property owner. New construction, repairs and replacements shall be pressure tested and/or inspected, at the discretion of the public works director, prior to being recovered.

(2) Design and installation.

(a) Building sewers shall be at least four inches in diameter to the property line and six (6") inches in diameter from the property line to the sewer main (service connection point). Large building sewer shall be sized as necessary in order to carry the flow anticipated. Four-inch building sewers shall be laid on a grade of at least 1.0%. 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. Slope and alignment of all building sewers shall be neat and regular. Pipe materials as specified in sub-section (b), below, shall be used. Pipe shall conform to the appropriate ASTM Specification and shall be laid in conformance with the appropriate ASTM Specification or with W.P.C.F. Manual of Practice No. 9. No more than a two-family dwelling per simplex station (grinder pump) and no more than one commercial establishment per station unless approved by the city.

(b) The pipe for house services may be either (i) SCH 40 PVC pipe meeting ASTM Specification D3034 with glue joints, or (ii) commercial extra heavy grade cast iron soil pipe conforming to Federal Specification WW-P-401-D with bituminous coating. PVC pipe shall have

a minimum wall thickness of 0.125 inches for 4-inch pipe and 0.180 inches for 6-inch pipe and shall be installed in accordance with recommended practice for "Underground Installation of Flexible Thermoplastic Sewer Pipe", ASTM Designation D2321 and as shown per Appendix A to this section 18-122.

Cast iron soil pipe shall be installed in compliance with applicable provisions of WPCF Manual of Practice No. 9.

(c) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer at a grade of one (1%) percent or more is 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 sewerage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

(d) The connection of the building sewer into the public sewer shall conform to the rules and regulations the city may establish and the procedures set forth in appropriate specifications of the ASTM and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made water tight and confirm to the plumbing code. Any deviation from the prescribed procedures and materials must be approved by the director of public works before installation.

(e) According to the plumbing code, an open vent, vented to atmosphere, shall be provided. The vent shall have an inside diameter of at least three (3) inches but shall, in any event, comply with the Southern Standard Plumbing Code.

(f) The applicant for the building sewer permit shall notify the director of public works when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the director of public works.

(g) At least one cleanout shall be provided for each building sewer. The cleanout shall be located as near to the building as possible but at least within three (3) feet of the building. Additional cleanouts are required at any horizontal change in direction in the building sewer requiring a 45° or greater bend and at intervals not to exceed seventy-five (75') feet. In the case of connections with individual pumps located close to the building, the requirements for a cleanout will be prescribed by the director of public works on case by case basis.

(h) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property

disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(i) Simplex station (grinder pump) installation, as approved by the director of public works. Specifications to be as prescribed by the director of public works.

(j) Destruction or malice to any city owned appurtenances, pump or lines shall be the responsibility of home owner. A charge for replacement of said equipment and labor shall be rendered.

(k) Upon review by the city and director of public works, a service charge may be imposed on any commercial or residential user for foreign material or breakage of the pump station whether duplex or simplex such as but not limited to plastic, cloth, metal, wood, etc.

To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-221, as replaced by Ord. #97-734, May 1997; and amended by Ord. #98-777, Jan. 1999, and Ord. #15-1022, March 2015)

18-123. Building sewer; inspection required. The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection, and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative. No connection to the public sewer shall be made and no line covered before it is inspected. Failure to secure such inspection shall subject the applicant to a fine of not less than $10.00 and the applicant shall be required, at his own expense, to uncover the line for inspection. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-222, as amended by Ord. #15-1022, March 2015)

18-124. Building sewer excavations to be guarded, etc.[1] All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-223, as amended by Ord. #15-1022, March 2015)

18-125. Public sewer; discharge of non-sewage waters prohibited. No person shall discharge or cause to be discharged any stormwater, surface

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[1]Municipal code reference
Building code: title 12, chapter 1.

water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-224, as amended by Ord. #15-1022, March 2015)

18-126. Permissible discharge of non-sewage waters. Stormwater and all other unpolluted drainage shall not be discharged to the public sewer. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-225, as replaced by Ord. #97-726, March 1997, and amended by Ord. #15-1022, March 2015)

18-127. Prohibited water-carried wastes in public sewer. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.

(3) Any waters or wastes having a pH lower than (5.5), or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-226, as amended by Ord. #15-1022, March 2015)

18-128. Public sewer; discharge of harmful substances prohibited. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can

otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than one hundred fifty (150° F), (65°C).

(2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150°F), (0 and 65°C).

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent.

(4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the superintendent for such materials.

(6) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(7) 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.

(8) Any waters or wastes having a pH in excess of 9.5.

(9) Materials which exert or cause:

(a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

(c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

(d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

(10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections. (1975 Code, § 8-227, as amended by Ord. #15-1022, March 2015)

18-129. Prohibited discharges; rejection, pre-treatment, or control. If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in § 18-128, and which in the judgment of the superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

(1) Reject the wastes;

(2) Require pretreatment to an acceptable condition for discharge to the public sewers;

(3) Require control over the quantities and rates of discharge; and/or,

(4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of § 18-139.

If the superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the superintendent, and subject to the requirements of all applicable codes, ordinances, and laws. To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections.

Pursuant to interlocal agreement dated October 31, 2003, and as authorized by Tennessee Code Annotated, § 68-221-601, et seq., Tennessee Code Annotated, § 19-101, et seq. and Tennessee Code Annotated, § 5-11-113, et seq., the Hamilton County Water & Wastewater Treatment Authority assumed title, ownership and all operational authority and responsibility for the sewer collector systems and for the collection of sewage and wastewater in the City of Red Bank, Tennessee, together with the assets and property rights of the City of Red Bank of and with respect to that same topic, in and for the jurisdictional limits of the City of Red Bank, Tennessee; accordingly, all operational and regulatory authority, together with any and all authority and responsibility for the enactment and/or collection of any and all fees, permits, costs and/or charges for such items, issues, in general, or, in particular, are those enacted and

enforced by Hamilton County Water & Wastewater Treatment Authority operating under its statutorily accorded authority, rights, duties and responsibilities. Provisions contained herein and in conflict with any such WWTA regulations, including but not limited to rate structures, permit requirements, permit fees, operational fees, usage fees, or other terms, provisions and requirements and civil penalties, fines and costs as set forth in subsections of the Red Bank city code are overruled and repealed and shall, in all instances, yield and be inferior to those corresponding provisions, terms, rates, requirements, rate structures, fees, fines, civil penalties, or financial enactments or requirements of any kind or nature whatsoever as determined and enforced by the WWTA. (1975 Code, § 8-228, as amended by Ord. #15-1022, March 2015)

18-130. When interceptors required. Grease, oil, and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid waste containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection. (1975 Code, § 8-229)

18-131. Maintenance of pre-treatment facilities. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense. (1975 Code, § 8-230)

18-132. Industrial wastes; manhole required. When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. (1975 Code, § 8-231)

18-133. Measurements, tests, and analyses. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control

manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (1975 Code, § 8-232)

18-134. Special industrial agreements permitted. No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor, by the industrial concern. (1975 Code, § 8-233)

18-135. Interference with sewage works prohibited. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (1975 Code, § 8-234)

18-136. Inspections authorized. The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. (1975 Code, § 8-235)

18-137. Inspector to observe company safety rules. While performing the necessary work on private properties referred to in § 18-136 above, 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 gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § 18-132. (1975 Code, § 8-236)

18-138. Entry upon easements authorized. The superintendent and other duly authorized employees of the city bearing proper credentials and

identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (1975 Code, § 8-237)

18-139. Sewer service charges levied. For the purpose of paying the interest on and principal of revenue bonds issued by the city for the payment of the cost and expenses as appurtenant, incident or necessary thereto for the construction and acquisition of additions, extensions, and improvements to the sewer system, consisting of sanitary sewers, intercepting and outfalls sewers, pumping facilities, treatment and disposal plants and other facilities for the collection, treatment and disposal of sewerage and industrial waste and the operation and maintenance of the sewers and sewerage system and sewerage disposal facilities of the city, there is hereby imposed sewer service charges upon the owner or occupant of all property now served or which may hereafter be served by the city's sewer system at the rate set forth in §§ 18-144 and 18-145 of this title. (1975 Code, § 8-238)

18-140. Abutting property owners to pay charges. The owner or occupant of each lot or parcel of land which abuts upon a street or other public way containing a sanitary sewer upon which lot or parcel a building has been for residential, commercial or industrial use, shall pay the sewer service charges as provided in §§ 18-144 and 18-145 of this title. (1975 Code, § 8-238.1, as amended by Ord. #97-726, § A8, March 1997)

18-141. Contracts for disposal of sewerage authorized; charges. The city commission may, subject to the approval of the consulting engineers then employed by the city in connection with the city's sewerage disposal system, if any, enter into contracts with any municipality, county, incorporated district or person for the treatment and disposal of sewerage collected and dumped or delivered to some part of the sewerage system; provided, however, that the charges to be paid for the treatment and disposal of such sewerage shall not be less than an amount which is fair and equitable, taking into account the costs to the city of such treatment and disposal and the costs of the sewerage disposal system. All revenues received pursuant to such contract shall be deemed to be revenues of the sewer system, and shall be applied and accounted for in the same manner as other revenues derived from the operation of the system. (1975 Code, § 8-239)

18-142. Charges to be based upon water consumption. The sewer service charges imposed by this chapter shall be based upon the water

consumption of the owner or occupant of the property served, as measured by meters of the Tennessee American Water Company, or the Hixson Utility District, as the case may be, or meters installed by the owner or occupant of the property, as provided in this chapter. (1975 Code, § 8-239.1)

18-143. Billing procedure. The sewer service charges shall become effective on Tennessee American Water Company's services rendered on or after March 1st, 1976, and on Hixson Utility District's services rendered on or after August 1st, 1976, at the rates hereinafter imposed, and shall be billed by the respective utilities at the same time they bill the owner or occupant for water service charges, and shall be due and payable at the same time as are the water service charges. (1975 Code, § 8-239.2, as amended by Ord. #97-726, § A9, March 1997)

18-144. Charges enumerated--quantity of water used. Sewer service charges shall be based upon the quantity of water used, and to the extent applicable, the number of dwelling or commercial units served by one (1) meter, and shall be as follows:

(1) For the first 200 cubic feet per month, or less, minimum charge: $10.76

(2) For all over 200 cubic feet per month, per 100 cubic feet, or any part thereof; $4.10

(3) For multi-unit residential units the minimum charge shall be the number of residential units served by one meter multiplied by the minimum charge for a 5/8" meter

(4) For multi-unit commercial buildings, the minimum charge shall be the number of commercial units served by one meter multiplied by the minimum charge for the actual meter size

(5) Provided further that for multiple residential or commercial units served by any one meter, all water used in excess of 200 cubic feet multiplied by the number of units served shall be billed at the rate of $4.10 per 100 cubic feet, or any part thereof.

To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections.

Pursuant to interlocal agreement dated October 31, 2003, and as authorized by Tennessee Code Annotated, § 68-221-601, et seq., Tennessee Code Annotated, § 19-101, et seq. and Tennessee Code Annotated, § 5-11-113, et seq., the Hamilton County Water & Wastewater Treatment Authority assumed title, ownership and all operational authority and responsibility for the sewer collector systems and for the collection of sewage and wastewater in the City of Red Bank, Tennessee, together with the assets and property rights of the City of Red Bank of and with respect to that same topic, in and for the jurisdictional limits of the City of Red Bank, Tennessee; accordingly, all operational and

regulatory authority, together with any and all authority and responsibility for the enactment and/or collection of any and all fees, permits, costs and/or charges for such items, issues, in general, or, in particular, are those enacted and enforced by Hamilton County Water & Wastewater Treatment Authority operating under its statutorily accorded authority, rights, duties and responsibilities. Provisions contained herein and in conflict with any such WWTA regulations, including but not limited to rate structures, permit requirements, permit fees, operational fees, usage fees, or other terms, provisions and requirements and civil penalties, fines and costs as set forth in subsections of the Red Bank city code are overruled and repealed and shall, in all instances, yield and be inferior to those corresponding provisions, terms, rates, requirements, rate structures, fees, fines, civil penalties, or financial enactments or requirements of any kind or nature whatsoever as determined and enforced by the WWTA. (1975 Code, § 8-240, as replaced by Ord. #96-709, Feb. 1996, Ord. #97-732, May 1997, Ord. #97-745, July 1997, Ord. #99-792, July 1999, Ord. #00-804, March 2000, and Ord. #00-833, Dec. 2000, and amended by Ord. #15-1022, March 2015)

18-145. Minimum monthly charge--meter connection size. Minimum sewer charge shall be based upon the water meter connection size and the number of units and shall be as follows:

Meter size	Minimum charge
5/8" (inch)	$ 10.76
3/4" (inch)	23.44
1" (inch)	40.17
1-1/2" (inch)	117.17
2" (inch)	252.73
3" (inch)	527.83
4" (inch)	1,054.47
6" (inch)	2,636.15

To the extent of conflict, the applicable regulations of the Hamilton County Water & Wastewater Treatment Authority shall control and shall supercede this/these sections.

Pursuant to interlocal agreement dated October 31, 2003, and as authorized by Tennessee Code Annotated, § 68-221-601, et seq., Tennessee Code Annotated, § 19-101, et seq. and Tennessee Code Annotated, § 5-11-113, et seq., the Hamilton County Water & Wastewater Treatment Authority assumed title, ownership and all operational authority and responsibility for the sewer collector systems and for the collection of sewage and wastewater in the City of Red Bank, Tennessee, together with the assets and property rights of the City of Red Bank of and with respect to that same topic, in and for the jurisdictional

limits of the City of Red Bank, Tennessee; accordingly, all operational and regulatory authority, together with any and all authority and responsibility for the enactment and/or collection of any and all fees, permits, costs and/or charges for such items, issues, in general, or, in particular, are those enacted and enforced by Hamilton County Water & Wastewater Treatment Authority operating under its statutorily accorded authority, rights, duties and responsibilities. Provisions contained herein and in conflict with any such WWTA regulations, including but not limited to rate structures, permit requirements, permit fees, operational fees, usage fees, or other terms, provisions and requirements and civil penalties, fines and costs as set forth in subsections of the Red Bank city code are overruled and repealed and shall, in all instances, yield and be inferior to those corresponding provisions, terms, rates, requirements, rate structures, fees, fines, civil penalties, or financial enactments or requirements of any kind or nature whatsoever as determined and enforced by the WWTA. (1975 Code, § 8-240.1, as replaced by Ord. #76-709, Feb. 1996, Ord. #97-745, July 1997, Ord. #99-792, July 1999; Ord. #00-806, March 2000; and Ord. #00-833, Dec. 2000, and amended by Ord. #15-1022, March 2015)

18-146. Designation of water accounts to be charged. The city manager, or his designated representative, shall designate and cause to be marked individual meter reading record sheets of the respective utilities, and indicate the meter service accounts which shall be billed for sewer service charges, and shall furnish these respective utilities with the rates to be charged for sewer services, which shall include all properties for which sewer service has been provided by the city. In the event of the extension of the city's sewer system to any property not now served by sewers, the city manager, or his designated representative, shall immediately notify the respective utilities, and indicate on the meter service accounts thereof, the additional property furnished with sewer service. (1975 Code, § 8-240.2)

18-147. Meters on water services other than the Tennessee American Water Company or the Hixson Utility District. The owners or occupants of property obtaining water from a source or sources other than through a meter of the Tennessee American Water Company or the Hixson Utility District, which is discharged into the city sewers, shall install, without costs to the city, a meter to measure the quantity of water received from such source, and shall pay the same rates as provided in §§ 18-144 and 18-145 of this title. No meters shall be installed or used for such purpose without the approval of the city engineer. If the owner of such property fails to install an approved meter or meters, the city engineer shall make an estimate of the quantity of such water used by such property owner and discharged into the city's sewers from the property, and the owner or occupant of the property shall be liable to

the city for the sewer service charges due, which may be collected by suit in any court of competent jurisdiction. (1975 Code, § 8-241)

18-148. Consumers not to be charged sewer rental for water used for industrial, commercial purposes not discharged into city sewers. Whenever a property upon which a sewer rental is imposed under this chapter uses water for an industrial or commercial purpose, which water so used is not discharged into the sewerage system of the city, the quantity of water so used and not discharged into the city's sewers shall be excluded in determining the sewer rental of the owner or occupants; provided, that the quantity of water so used and not discharged into the city sewers is measured by a device or meter approved by the city engineer and installed by the owner or occupant without cost to the city. The sewer rental based upon the consumption of water to be paid by the owner or occupant of such property shall be computed at the rates provided in this chapter less the quantity not discharged into the city sewers. (1975 Code, § 8-242)

18-149. Dumping of sewage. It shall be unlawful to dump sewage recovered from septic tanks into any public sewer through any manhole, or any other manner, except as is specifically authorized herein. (1975 Code, § 8-243)

18-150. Commercial dumping prohibited: penalty therefor. It shall be unlawful for any individual, proprietorship, corporation, partnership and/or any other entity which shall, for a fee, as a part of its business activities, to dump any sewage recovered from septic tanks and/or other receptacles and/or wastewater to be dumped into the system. Any person, individual or entity found in violation thereof, shall be fined in an amount not to exceed fifty dollars ($50.00) for each violation thereof and shall be subject to such other civil or criminal penalties as may otherwise be provided. It is specifically hereby enacted that such dumping shall be considered to be an offense of disorderly conduct. (1975 Code, § 8-244)

18-151. Reserved. (1975 Code, § 8-245, replaced by Ord. #97-729, April 1997, and repealed and reserved by Ord. #15-1022, March 2015)

18-152. Hearing board; powers. A hearing board consisting of the city commission acting in such capacity, shall have the authority for good cause shown, and upon written request of a sewer user, to grant variances and/or to reasonably extend time periods for compliance with the requirements of this chapter which deals only with the discontinuance of use of private sewer systems or minimum lot areas prescribed by § 18-109 whenever such extensions or variances shall be equitable and only when not in conflict with the general public interest. (1975 Code, § 8-246)

18-153. Reserved. (1975 Code, § 8-247, as repealed and reserved by Ord. #15-1022, March 2015)

18-154. Notice of violations, procedures. Any person found to be violating any provisions of this chapter except §§ 18-102, 18-103, 18-114, 18-121, 18-127, 18-128 and/or 18-135 shall be served by the city with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all such violations. Those found to be violating the excepted sections set forth hereinabove shall be, immediately and forthwith, issued a citation to appear before the city court for violation of those enumerated sub-sections. (1975 Code, § 8-248)

18-155. Penalty for continued violation; civil penalty.

(1) Penalty for continued violation. Any person who shall continue any violation beyond the time period provided in any provision of this chapter, any time period set down pursuant to any administrative order or any time period set forth within the provisions of section 18-154 (supra) of this chapter and/or who shall violate, at any time, provisions of this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for each day of violation, under the general penalty clause of the Red Bank City Code. It is specifically hereby enacted that each such separate day of violation shall constitute a separate offense punishable under the authority of this section.

(2) Civil penalty. Any user found to be violating any provision of this chapter, or a discharge permit or order issued hereunder shall be served by the director of public works or his or her representative with written notice stating the nature of the violation. Violator shall permanently cease all violations upon receipt of this notice. The notice may be in one of several forms specified elsewhere in this chapter. Any user who shall violate any provision of this chapter, a discharge permit, or other order issued hereunder shall be guilty of a violation of this chapter and shall be liable to the city for a civil penalty of up to $1,000.00 per day for each day on which the violation occurs. Each day in which such violation occurs shall be deemed a separate day for assessment of these penalty purposes. (1975 Code, § 8-249, as replaced by Ord. #97-735, May 1997)

18-156. Civil liability for violators. (1) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned, including any money(ies) expended by the city in repairing or replacing any facility, fixture, service line, service line cleanout, and/or connection in the event of the owner's refusal to do so voluntarily.

It is specifically hereby enacted that any charges for any expense, loss or damage, including attorney fees and costs for enforcing the provisions of this chapter and/or the enforcement of such lien(s), occasioned by the city by reason

of such violation or violations, referred to in this chapter shall be, and is hereby, declared a lien against the real property upon which the offense occurs, said liens to have precedence over all other liens, mortgages or encumbrances except that for ad valorem taxes. The city shall, after due demand for payment shall have been refused or neglected, take action at law or in equity as is necessary to enforce said lien and to sell the property for the recovery of the costs, including attorney fees and costs for the enforcement of such lien(s), thereof free and clear of all other liens, mortgages or encumbrances except that lien for ad valorem taxes. All prior encumbrances for value shall be made a party to any such proceedings. (1975 Code, § 8-250, as replaced by Ord. #97-738, May 1997)

18-157. Enforcement, recover of costs by lien and/or special assessment. (1) The city, through its city manager, the director of public works, and/or the designee of either, to insure compliance with this chapter, may take the following enforcement steps against users in non-compliance with the provisions of this chapter. The remedies available include injunctive relief, civil and criminal penalties, immediate discontinuance of discharges and/or water service and the publishing of a list of significant violators annually. The enforcement authority shall be vested in the city manager or the director of public works or his, her or their designees.

(2) All violations of requirements of this chapter must be reviewed and responded to by the city manager or the director of public works or his or her representative. In general, the director of public works shall notify the user when a violation occurs or otherwise becomes known. For all violations, the city manager or the director of public works shall receive an explanation and, as appropriate, a plan from the user to correct the violation within a specified period of time. If the violations persists, or the explanation and/or plan are not adequate, the city manager's or the director of public works, response shall be more formal and commitments or schedules, as appropriate, for compliance, will be established in an enforceable order. The enforcement response selected will be related to the seriousness of the violation. Enforcement responses will be escalated if compliance is not achieved expeditiously after the initial action. A significant violation will require a formal evaluation action. The full scale of enforcement actions will be detailed in the plan.

(a) Enforcement actions.

(i) Formal notice. These actions include statements made to the user during sampling and/or inspection visits, telephone calls to the appropriate owner, official, informal meetings, warning or reminder letters. These informal notices shall be used for minor violations.

(ii) Formal notice.

(A) Notice of violation. Any person found to be violating any provision of this chapter, waste water discharge permit, or any order issued hereunder shall be

served by the city manager or the director of public works with a written notice stating the nature of the violation. Offender must permanently cease all violations and/or repair or maintain such portions of his system, piping, or connections as are necessary to terminate the violation.

(B) Administrative order/fines. Any person who, after receiving a notice of violation, continues to violate the provisions of this chapter or other standard or requirement, shall be ordered to appear before the city manager or the director of public works. Said appearance and compliance schedule will be given to the violating user and/or owner and an administrative fine may be assessed. The fine shall be determined on a case by case basis which shall consider the type, severity, duration, and number of violations, severity of impact on the POTW, impact on human health, financial detriment to the city by virtue of any administrative actions pending with the Department of Environment & Conservation, pending or enforced with respect to the Department of Environment & Conservation, past history of the user and good faith efforts made by the user. The fine shall be non-arbitrary but in an appropriate amount and shall, in any event, be authorized in an amount up to $1,000.00 per day of each violation. Each day of non-compliance shall constitute a separate violation.

(C) Users desiring to dispute such fines shall file with the city manager or the director of public works a request for the city to reconsider the fine within ten (10) days of being notified of the fine. The city commission shall convene a hearing on the matter within thirty (30) days of receiving such a request from the user. The administrative order may take any of the following four forms:

(1) Consent order. The city manager or the director of public works is hereby empowered to enter into consent orders, assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for non-compliance. Such orders will include specific action to be taken by the user to correct the non-compliance within a time period specified in the order. Consent orders shall have the same force and effect as all other administrative orders and shall be specifically enforced by the Chancery Court of Hamilton County.

(2) Compliance order. When the city manager or the director of public works finds that the

user has violated or continues to violate this section or permit or order issued hereunder, he may issue an order to the user responsible for the violation directing that, following a specified time period, sewer services shall be discontinued unless adequate facilities, devices or other related appurtenances have been installed or are properly operated and maintained. Orders may also contain such other requirements as may be reasonably necessary and appropriate to address the non-compliance, including installation.

(3) Cease and desist order. When the city manager or the director of public works finds that a user has violated or continues to violate the section or any permit or order issued hereunder, the city manager or the director of public works may issue an order to cease and desist all such violations to the user and direct these persons in non-compliance to:

(a) Comply forthwith;

(b) Take such appropriate or remedial definitive action as may be needed to properly address the continuing or threatened violation, including halting operations, discontinuing water service, and/or terminating the discharge.

(4) Show cause order. The city manager or the director of public works may issue to any user who causes or contributes to violations of this chapter, an order to appear and show cause why more severe enforcement action should not be taken, the proposed enforcement action directing the user to show cause before the city manager or the director of public works why more severe 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. Service may be made on any agent or officer or owner. Whether or not a user or owner appears, immediate enforcement action may be pursued. The city manager or the director of public works shall conduct the hearing and take evidence and;

(a) issue in the name of the city notices of hearing requesting the tenants and

testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;

(b) take the evidence;

(c) transmit a report of the evidence and hearing including transcripts and other evidence, together with recommendations to the city for action thereon. At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically;

(d) the transcript, so recorded, will be made available to the public or any party to the hearing upon payment of usual charges. After reviewing the evidence the city manager or the public works director may issue an order to the user responsible for the violation directing that, following a specified time period, sewer service may be discontinued unless adequate assurance as to compliance is properly provided. City manager or the public works director may also issue such further and general orders and directives as are necessary and appropriate to assure compliance with this part.

(5) (a) Upon failure of an owner and/or user to timely comply with any order, notice or enforcement action issued by the city manager or the director of public works as hereinabove provided, for a period of in excess of thirty (30) days (unless extended by the city manager or the director of public works for good cause shown) the city, acting by and through the city manager or the director of public works is, in addition to any fines or penalties, authorized, upon not less than ten (10) days notice, to enter onto the easement and/or onto the lands of anyone in violation of such order or action and to thereafter effect such maintenance, repair or replacement as may be necessary to bring such real property into compliance with the terms of this chapter. The cost of such repairs, maintenance, and/or replacement (including attorney fees and costs

of enforcement of the lien) is hereby declared to be a lien against the real property upon which the work shall have been accomplished, said lien to have precedence over all other liens, mortgages or encumbrances, except that for ad valorem taxes. The city shall, after due demand for payment shall have been refused or neglected, take such action(s) at law or in equity as is necessary for recovery of the cost and expenditures of the maintenance, repair or replacement, including all costs and attorney fees incurred in enforcement of any of these provisions.

(b) Additionally, the city commission may, by ordinance duly noticed, enacted and passed, declare a special assessment as to the real property on which the maintenance, repair and/or replacement shall have occurred, and recover the fees, costs and expenditures of the city concerning the same, including attorney fees and costs of enforcement, in the same manner, and with the same force and effect and by the same methods as that provided by general law for ad valorem taxes.

(c) To this end the city manager is specifically authorized to enter such agreements with the county tax assessor and/or county trustee and to take all such other actions as are necessary and convenient to effectuate the intent of these provisions. (as added by Ord. #97-736, May 1997)

CHAPTER 2

WASTEWATER CONTRIBUTION REGULATIONS

SECTION

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18-201. Purpose and policy. (1) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Red Bank, Tennessee, and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977, and the General Pretreatment Regulations (40 CFR, Part 403).

(2) The objectives of this chapter are:

(a) To prevent the introduction of pollutants into the municipality wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or which would otherwise be incompatible with the system;

(c) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system; and

(d) To provide for equitable distribution of the cost of the municipal wastewater system.

(3) This chapter provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity

will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(4) This chapter shall apply to the City of Red Bank and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided herein, the city manager of the Red Bank POTW shall administer, implement, and enforce the provisions of this chapter.

Pursuant to interlocal agreement dated October 31, 2003, and as authorized by Tennessee Code Annotated, § 68-221-601, et seq., Tennessee Code Annotated, § 19-101, et seq. and Tennessee Code Annotated, § 5-11-113, et seq., the Hamilton County Water & Wastewater Treatment Authority assumed title, ownership and all operational authority and responsibility for the sewer collector systems and for the collection of sewage and wastewater in the City of Red Bank, Tennessee, together with the assets and property rights of the City of Red Bank of and with respect to that same topic, in and for the jurisdictional limits of the City of Red Bank, Tennessee; accordingly, all operational and regulatory authority, together with any and all authority and responsibility for the enactment and/or collection of any and all fees, permits, costs and/or charges for such items, issues, in general, or, in particular, are those enacted and enforced by Hamilton County Water & Wastewater Treatment Authority operating under its statutorily accorded authority, rights, duties and responsibilities. Provisions contained herein and in conflict with any such WWTA regulations, including but not limited to rate structures, permit requirements, permit fees, operational fees, usage fees, or other terms, provisions and requirements and civil penalties, fines and costs as set forth in subsections of the Red Bank city code are overruled and repealed and shall, in all instances, yield and be inferior to those corresponding provisions, terms, rates, requirements, rate structures, fees, fines, civil penalties, or financial enactments or requirements of any kind or nature whatsoever as determined and enforced by the WWTA. (1975 Code, § 8-401, as amended by Ord. #15-1022, March 2015)

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 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 for 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 Red Bank, Tennessee or the City Commission of the City of Red Bank, Tennessee.

(8) "Cooling water." The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(9) "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.

(10) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(11) "Environmental Protection Agency, or EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(12) "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.

(13) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(14) "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).

(15) "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).

(16) "Interference." The inhibition or disruption of the POTW 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 Section 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 by the POTW.

(17) "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.

(18) "National prohibitive discharge standard or prohibitive discharge standard." Any regulation developed under the authority of Section 307(b) of the Act and 40 CFR, Section 403.5.

(19) "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, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

(20) "National pollutant discharge elimination system or NPDES permit." A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(21) "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.

(22) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(23) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(24) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water.

(25) "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, biological processes, process changes or other means, except as prohibited by 40 CFR, Section 403.6(d).

(26) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

(27) "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 inside and outside Red Bank who are, by contract or agreement with the city, users of the city's POTW.

(28) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(29) "Shall" is mandatory; "May" is permissive.

(30) "Significant industrial user." Any industrial user of the city's wastewater disposal system who:

(a) Has a discharge flow of 25,000 gallons or more per average work day; or

(b) Has a flow greater than 5% of the flow in the city's wastewater treatment system; or

(c) Has in his wastes toxic pollutants as defined pursuant to Section 307 of the Act of Tennessee Statutes and rules; or

(d) Is found by the city, (state control agency) or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contribution industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(31) "State." State of Tennessee.

(32) "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.

(33) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(34) "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 article, or his duly authorized representative.

(35) "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.

(36) "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.

(37) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(38) "Wastewater." The liquid- and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and

institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(39) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation 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.

(40) "Wastewater discharge permit." As set forth in § 18-213(2). (1975 Code, § 8-401)

18-203. Abbreviations. The following abbreviations shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand.
CFR	-	Code of Federal Regulations.
COD	-	Chemical Oxygen Demand.
EPA	-	Environmental Protection Agency.
l	-	Liter.
mg	-	Milligrams.
mg/l	-	Milligrams per liter.
NPDES	-	National Pollutant Discharge Elimination System.
POTW	-	Publicly Owned Treatment Works.
SIC	-	Standard Industrial Classification.
SWDA	-	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
USC	-	United States Code.
TSS	-	Total Suspended Solids. (1975 Code, § 8-401)

18-204. General discharge prohibitions. (1) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or 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 ten percent (10%) 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, bromates, 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, animal guts or tissues, 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, unless the POTW is specifically designed to accommodate such wastewater, 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 toxic pollutants 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 the 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 substances which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.

(h) Any wastewater with objectionable color not removed in the treatment process, 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) unless the POTW treatment plant is designed to accommodate such temperature.

(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. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.

(k) Any wastewater containing any radioactive waste or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(l) Any wastewater which causes a hazard to human life or creates a public nuisance.

(2) When the superintendent determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the superintendent shall:

(a) Advise the user(s) of the impact of the contribution on the POTW; and

(b) Develop effluent limitation(s) for such user to correct the interference with the POTW. (1975 Code, § 8-402)

18-205. 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. (1975 Code, § 8-402)

18-206. Modification of federal categorical pretreatment standards. Where the city's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, the city may apply to the approval authority for modification of specific limits in the federal pretreatment standards. "Consistent removal" shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system 95 percent of the samples taken when

measured according to the procedures set forth in Section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) - "General Pollution" promulgated pursuant to the Act. The city may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained. (1975 Code, § 8-402)

18-207. Limitations on wastewater strength. No person shall discharge wastewater containing in excess of:

ALLOWABLE DISCHARGE LIMITS BASED ON MASS

PARAMETER	INDUSTRY USER LIMIT #/DAY
CADMIUM	0.02
CHROMIUM	1.00
COPPER	0.63
CYANIDE	0.50
LEAD	0.41
MERCURY	0.01
NICKEL	1.24
SILVER	0.09
ZINC	0.25
BENZENE	0.06
BIS (2-ETHYLHEXYL) PHTHALATE	0.07
BUTYL BENZYL PHTHALATE	0.44
CHLOROFORM	1.24
DI-N-BUTYL PHTHALATE	0.16
DIETHYL PHTHALATE	0.11
ETHYLBENZENE	0.15
METHYLENE CHLORIDE	0.65
NAPHTHALENE	0.01
PHENOL	0.01
TETRACHLOROETHYLENE	0.45
TOLUENE	0.37
TRICHLOROETHYLENE	0.98
1, 1, 1-TRICHLOROETHANE	1.96
1, 2-TRANS-DICHLOROETHYLENE	0.25
ARSENIC	0.25
BORATE	0.25

(1975 Code, § 8-402)

18-208. State requirements. State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter. (1975 Code, § 8-402)

18-209. City's right of revision. The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in § 18-201 of this chapter. (1975 Code, § 8-402)

18-210. Excessive discharge. No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. (1975 Code, § 8-402)

18-211. Accidental discharges. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent slug discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. All existing users shall complete such a plan by January 1, 1983. No user who commences contribution to the POTW after the effective date of this chapter shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city.

Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(1) Written notice. Within five (5) days following an accidental discharge the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(2) 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 discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (1975 Code, § 8-402)

18-212. Fees. (1) Annual review and notification. The city will review annually the wastewater contribution of users, user classes, the total cost of operation and maintenance of the treatment works and collection system, and its approved user charge system. As necessary, the city will revise the charges for users or user classes to accomplish the following:

(a) Maintain the proportionate distribution of operation and maintenance costs among users and user classes.

(b) Generate sufficient revenue to pay operation and maintenance costs necessary for the proper operation of the collection system and the treatment works.

(c) Apply excess revenues collected, if any, from a class of users to the cost of operation and maintenance attributable to that class for the next year and adjust the rate accordingly.

As necessary and as applicable, each user will be notified annually in conjunction with a regular bill of the rate and that portion of the user charge that is attributable to wastewater collection system and treatment services.

(2) Charges for operation and maintenance. The cost of operation and maintenance for all flows, such as extraneous flows (1/1) or unmetered water, user or users shall be distributed among all users based on the flow volume of the user. Flow volume of the user shall be determined by water meter records of usage unless the user elects to install at its own expense a sewer flow meter. The flow meter shall meet the city's approval prior to installation of the meter. Maintenance of such meter shall be the sole responsibility of the user.

(3) User charge system. (a) Classification of users. Users of the city's wastewater system shall be classified into two general classes or categories depending on the user contribution of wastewater loads, each class being identified as follows:

(i) Class I: Those users whose average biochemical oxygen demand (B.O.D.) is two hundred fifty milligrams per liter (250 mg/l) by weight or less, and whose suspended solids (S.S.) is two hundred fifty milligrams per liter concentration (250 mg/l) by weight or less.

(ii) Class II: Those users whose average biochemical oxygen demands exceed 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) by weight.

(b) Determination of costs. The city commission shall from time to time, establish monthly rates and charges for the use of wastewater system. Said charges shall be based on the categories of administration

costs, including billing and accounting costs, operation and maintenance costs, replacement or rehabilitation costs, and debt service costs of the wastewater collection and treatment facilities.

(i) All users who fall under Class I shall pay a unit charge expressed as dollars per 100 cubic feet of water purchased ($/100 cu ft) and a charge in proportion to the size of water meter serving the user, with the unit charge being determined in accordance with the following formula:

$$Cu = \frac{Rt - Rm}{Vt - Vm}$$

Where:

Cu = Unit cost for Class I users in dollars per 100 cubic feet.
Rt = Total revenue required for total operation and maintenance, debt service, etc. determined by yearly budget projections.
Rm = Revenue for all sizes of water meters for usage of 200 cubic feet per month and minimum bills for usage of 200 cubic feet or less per month expressed in dollars per year.
Vt = Total volume of wastewater used from all users expressed in cubic feet per year.
Vm = Volume of wastewater from users of 200 cubic feet per month and from users of less than 200 cubic feet per month.

(ii) The rates as set forth above are recorded in title 18, chapter 1 of the Red Bank Municipal Code as amended.

(iii) All users who fall within the Class II classification shall pay the same base unit charge per 100 cubic feet of water purchased and those meter charges in proportion to meter size as for the Class I users; and in addition, shall pay a surcharge rate but not limited to the excessive amounts of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(iv) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the city manager 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.

(v) 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 § 18-212(3)(a)(i)

above, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge:

$$Cu = VcVu + BcBu + ScSu$$

Where:

Cu = Total user charge per unit of time.
Vc = Total cost for transportation and treatment of a unit of wastewater volume.
Vu = Volume contribution per unit of time.
Bc = Total cost for treatment of a unit of biochemical oxygen demand (BOD)
Bu = Total BOD contribution for a user per unit of time.
Sc = Total cost of treatment of a unit of suspended solids.
Su = Total suspended solids contribution from a user per unit of time.

(c) Surcharge fees. If it is determined by the city manager or his designee 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.

(d) Use of revenue from wastewater facilities. Any revenue, derived from the sale of by-products of the treatment process lease or sale of crops grown on land purchase or owned, used by and for the wastewater facilities, shall be used to offset the costs of operation and maintenance. These revenues shall be applied proportionately to all user charges. (1975 Code, § 8-403)

18-213. Administration. (1) Wastewater discharges. It shall be unlawful to discharge without a city permit to any natural outlet within the city, or in any area under the jurisdiction of said city, and/or to the POTW any wastewater except as authorized by the superintendent in accordance with the provisions of this chapter.

(2) Wastewater contribution permits. (a) General permits. All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant industrial users connected to or contributing to the POTW shall obtain a wastewater discharge permit within 180 (optional) days after the effective date of this chapter.

(b) Permit application. Users required to obtain a wastewater contribution permit shall complete and file with the city an application in the form prescribed by the city and accompanied by a fee of fifty dollars ($50.00).

Existing users shall apply for a wastewater contribution permit within 30 days after the effective date of this chapter, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

(i) Name, address, and location (if different from the address);

(ii) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(iii) Wastewater constituents and characteristics including, but not limited to those mentioned in § 18-204 as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;

(iv) Time and duration of contribution;

(v) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(vi) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation;

(vii) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;

(viii) Where known, the nature and concentration of any pollutants in the discharge, which are limited by any city, state, or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O & M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(ix) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the significant industrial 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.

The following conditions shall apply to this schedule:

(A) The schedule shall contain increments of progress in the form of dates for the commencement and

completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components commencing construction, completing construction, etc.)

(B) No increment referred to in paragraph (A) shall exceed 9 months.

(C) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the superintendent.

(x) Each product produced by type, amount, process or processes and rate of production;

(xi) Type and amount of raw materials processed (average and maximum per day);

(xii) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(xiii) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

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 contribution permit subject to terms and conditions provided herein.

(c) Permit modifications. Within 9 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. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by § 18-213(2)(b), the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment and the information required by § 18-213(b)(viii) and (ix).

(d) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established 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 for flow regulations and equalization;

(iv) Requirements for installation and maintenance of inspection 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 or discharge reports (see § 18-213(3));

(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 discharges as per § 18-214(2); and

(xi) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(e) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) (optional) 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. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements as identified in § 18-204 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of any change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(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 significant industrial user shall also comply with the terms and conditions of the existing permit.

(3) Reporting requirements for permittee. (a) Compliance date report. Within 90 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 processes 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 user, and certified by a qualified professional.

(b) Periodic compliance reports. (i) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or in the case of a 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 standard 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 reported in § 18-213(4). 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.

(ii) The superintendent may impose mass limitation on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by sub-paragraph (i) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports 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, of pollutants contained therein which are

limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analyses 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 administrator. Sampling shall be performed in accordance with the techniques approved by the administrator.

(Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.

(4) Monitoring facilities. The city shall require to be provided and operation at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the city may, when such location would be impractical or cause undue hardship on the significant industrial user allow the facility to be constructed in the public street sidewalk area 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 sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

(5) 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 purposes of inspection, sampling, records examination or in the performance of any of their duties. The city, approval authority and (where the NPDES state is the approval authority) EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspections, 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 responsibilities.

(6) Pretreatment. Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will 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. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

The city shall annually publish in one of the general circulation newspapers of Chattanooga, Tennessee a list of the users which were not in compliance with any pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same 12 months.

All records relating to compliance with pretreatment standards and shall be made available to officials of the EPA or approval authority upon request.

(7) Confidential information. Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city 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 a 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 upon request to governmental agencies for uses related to this chapter, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit and/or the pretreatment programs; 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 city as confidential, shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user. (1975 Code, § 8-404)

18-214. Enforcement. (1) Harmful contributions. The city may suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater contribution permit and/or the wastewater service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

(2) Revocation of permit. Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures in this section of this chapter:

(a) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;

(b) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;

(c) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the permit.

(3) Notification of violation. Whenever the city finds that any user has violated or is violating this chapter, the wastewater contribution permit, or any prohibition, limitation or requirements contained herein, the city may serve upon such person a written notice by registered mail stating the nature of the violation. Within 30 days of the date of the notification, a plan for the satisfactory correction thereof shall be submitted to the city by the user.

(4) 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 city council 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 days before the hearing. Service may be made on any agent or officer of a corporation.

(b) The city council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the (assigned department) to:

(i) Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(ii) Take the evidence;

(iii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

(c) At any hearing held pursuant to this chapter, testimony taken shall be under oath and stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(d) After the city council 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, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(5) 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 (circuit) court of this county. (1975 Code, § 8-405)

18-215. Penalty; costs. (1) Civil penalties. Any user who is found to have violated an order of the city council or who willfully or negligently failed to comply with any to provision of this chapter, and the orders, rules, regulations and permits issued hereunder, shall be fined not less than one hundred dollars (optional) nor more than one thousand dollars (optional) for each offense. Each day on 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 attorneys' 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 contribution 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. (1975 Code, § 8-406)

CHAPTER 3

WATER SERVICE

SECTION

18-301. To be furnished by Tennessee American Water Company of Chattanooga and Hixson Utility District.

18-301. To be furnished by Tennessee American Water Company of Chattanooga and Hixson Utility District. (as replaced by Ord. #15-1022, March 2015)

CHAPTER 4

DRAINAGE SYSTEMS

SECTION

18-401. Storm water carried in storm water systems.
18-402. Storm water systems designed to prevent flooding.
18-403. Storm water systems--design.
18-404. Enclosed sewers.
18-405. Open channels.
18-406. Side ditches.
18-407. No permit issued without plans.
18-408. Permit.
18-409. Construction must conform to previously approved plans.

18-401. Storm water carried in storm water systems. Storm water shall generally be carried in storm water systems on the basis of criteria established in this section. (as added by Ord. #97-744, § 1, July 1997)

18-402. Storm water systems designed to prevent flooding. Storm sewer systems shall be designed to prevent flooding of improvements by storms having the return period as provided hereinafter. (as added by Ord. #97-744, § 1, July 1997)

18-403. Storm water systems -- design. Storm sewer systems shall be designed to protect against flooding of property of all classes, and to maintain the required level of services for public facilities. Storm sewer systems shall be designed as a coordinated unit and may include any or all of the following elements;

(1) Enclosed storm sewers and appurtenances

(2) Open channels

(3) Swales on property lines and/or back lot lines (as added by Ord. #97-744, § 1, July 1997)

18-404. Enclosed sewers. Enclosed sewers shall be used to collect and convey drainage on, across, and through public street rights-of-way. Outfall drains shall extend at least 60 feet to the rear of the front building line or 20 feet past the back line of the structure, whichever is greater, and on the inlet to 1 foot from the center of the side ditch. (as added by Ord. #97-744, § 1, July 1997)

18-405. Open channels. Open channels are acceptable only to carry storm water runoff from tributary areas exceeding 100 acres, or from smaller tributary areas otherwise requiring an enclosed storm sewer pipe 48" in

diameter or larger, except drainage structures shall be provided where open channels cross public rights-of-way. (as added by Ord. #97-744, § 1, July 1997)

18-406. Side ditches. Side ditches are generally not acceptable and may be used to convey drainage along public rightsof-way only in rural areas and where designated by the City Engineer or Public Works Department. Culverts and appurtenant drainage facilities shall be designed to permit their incorporation into a future enclosed storm sewer system when possible. Ditches shall be designated to meet the requirements for open channels. (as added by Ord. #97-744, § 1, July 1997)

18-407. No permit issued without plans. No commercial development of construction, no residential or commercial subdivision, development or construction, no multi-family housing development or construction, nor any other construction (other than undeveloped existing single family lots) or paving or parking lots shall hereafter be approved or permitted or construction allowed thereon, and no building permit shall issue, unless and until the owner, builder or developer thereof shall have submitted to and have preapproved by the city drainage system plans to control water drainage and run off as a consequence to such plan building and/or development. Such plans shall be drawn, developed and designed in accordance with the design criteria for drainage systems, adopted by the city commission by resolution, and as modified from time to time hereafter, and a copy of which is on file in the office of the city manager and in the office of the director of public works. (as added by Ord. #97-744, § 1, July 1997)

18-408. Permit. Upon receipt and approval of said design and plans, developed and prepared in accordance with the design criteria for drainage systems, provided hereinabove, a drainage system permit shall be issued by the city. The permit review, application and inspection fee is established at $_____. (as added by Ord. #97-744, § 1, July 1997)

18-409. Construction must conform to previously approved plans. The City shall not allow, and no person shall use, occupy or hereafter construct any improvements as provided in section 18-407, supra., which improvement shall not have been constructed in accordance with the plans previously approved by the city as evidenced by the drainage system permit unless and until improvements and/or construction be modified to conform to the plans previously preapproved by the permit. (as added by Ord. #97-744, § 1, July 1997)

CHAPTER 5

STORM WATER UTILITY

SECTION

18-501. Findings.
18-502. Establishment of a utility and enterprise fund.
18-503. Definitions.
18-504. Scope of responsibility for the city drainage system.
18-505. Requirements for on-site stormwater systems; enforcement methods and inspections; operational permits.
18-506. General financing policy.
18-507. Cost analysis and rate study.
18-508. Enforcement; fine and penalties; damages.

18-501. Findings. The Board of Commissioners of the City of Red Bank, Tennessee makes the following findings:

(1) The professional engineering and financing analysis (storm water management action plan) submitted to the city properly assesses and defines the storm water management problems, needs, goals, program priorities and funding opportunities of the city.

(2) Given the problems, needs, goals, program priorities, and funding opportunities identified in the storm water management action plan, and as authorized by statute, it is appropriate to authorize the formation of an organizational and accounting entity dedicated specifically to the management, maintenance, protection, control, regulation, use, and enhancement of storm water systems in Red Bank in concert with other water resource management programs.

(3) Storm water management is required, applicable and needed throughout the corporate limits of Red Bank. While specific service and facility demands may differ from area to area at any given point in time, a storm water management service area encompassing all lands and bodies of water within the corporate limits of Red Bank is consistent with the present and future needs of the community.

(4) The storm water needs and requirements in the City of Red Bank include but are not limited to protecting the public health, safety, and welfare. Provisions of storm water management programs and facilities renders and/or results in both service and benefit to all properties, property owners, citizens, and residents of Red Bank in a variety of ways. The service and benefit rendered or resulting from provision of storm water management systems and facilities may differ depending on many factors and considerations, including but not limited to location, demands and impacts imposed on the storm water systems and programs, and risk exposure.

(5) The City of Red Bank presently owns and operates storm water management systems and facilities, which have been developed over many years. The future usefulness of the existing storm water systems owned and operated by the city, and of additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use and enhance storm water systems and facilities in Red Bank in concert with the management of other water resources in the city. In order to do so, the city must have adequate and stable funding for its storm water management program operating and capital investment funds.

(6) The board of commissioners finds, concludes and determines that a storm water utility provides the most practical and appropriate means of properly delivering and funding storm water management services in Red Bank. (as added by Ord. #02-854, June 2002)

18-502. Establishment of a utility and enterprise fund. (1) There is hereby established a storm water utility within the public works department which shall be responsible for storm water management throughout the city's corporate limits, and which shall provide for the management, protection, control, regulation, use, and enhancement of storm water systems and facilities, and the city manager and public works director and/or their respective designees shall have all necessary authority to carry out the tasks, projects, construction, modifications and alterations to the storm water and drainage systems as shall be necessary and appropriate to carry out the general purposes of this chapter.

(2) The city manager shall establish a storm water enterprise fund in the city budget and accounting system for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to rentals, rates, charges, fees, and licenses as may be established by the board of commissioners. Any revenues and receipts of the storm water utility shall be placed in the storm water enterprise fund and all expenses of the utility shall be paid from the storm water enterprise fund, except that other revenues, receipts, and resources not accounted for in the storm water utility enterprise fund may be applied to storm water management operations and capital investments as deemed appropriate by the board of commissioners, upon recommendation of the city manager.

(3) The board of commissioners hereby transfers to the storm water utility operational control over the existing storm water management systems and facilities owned and heretofore operated by the city and other related assets, including but not limited to properties upon which such facilities are located, easements, rights-of-entry and access, and certain equipment. (as added by Ord. #02-854, June 2002)

18-503. Definitions. (1) "Customers of the storm water utility." Customers of the storm water utility shall include all persons, properties, and

entities served by and/or benefitting from the utility's acquisition, management, maintenance, extension, and improvement of the public storm water management systems and facilities and regulation of public and private storm water management systems, facilities and activities related thereto, and persons, properties, and entities which will ultimately be served or benefitted as a result of the storm water management program.

(2) "Hydrologic response." The hydrologic response of a property is the manner and means whereby storm water collects, remains, infiltrates, and is conveyed from a property. It is dependent on several factors including, but not limited to, the presence of impervious area, the size, shape, topographic, vegetative, and geologic conditions of a property, antecedent moisture conditions, and groundwater conditions on a property.

(3) "Impervious surfaces." Impervious surfaces are those areas, which prevent or impede the infiltration of storm water into the soil as it entered in natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of storm water runoff which existed prior to development.

(4) "Storm water management system." Storm water management systems address the issues of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes, ponds, and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention, and treatment of storm water or surface water drainage.

(5) "Undeveloped land." Land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of storm water or cause storm water to collect, concentrate, or flow in a manner materially different than that which would occur if the land was in an unaltered natural state. (as added by Ord. #02-854, June 2002)

18-504. <u>Scope of responsibility for the city drainage system</u>.

(1) The city drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures and facilities, natural or man-made, within the political boundaries of the City of Red Bank which accumulate, guide, control and/or convey storm water through which the city intentionally or unintentionally collects, accumulates and/or diverts surface waters from its public streets and properties. The city owns or has system which

(a) Are located within public streets, rights-of-way, and easements;

(b) Are subject to easements, rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or

(c) Are located on public lands to which the city has adequate access for operation, maintenance, and/or improvement of systems and facilities.

Operation and maintenance of storm water systems and facilities which are located on private property or public property not owned by the City of Red Bank and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner, except as that responsibility may be otherwise affected by the laws of the State of Tennessee and the United States of America.

(2) It is the intent of this chapter to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with any individual person or to any specified property within or without the boundaries of the City of Red Bank. The City of Red Bank expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the city, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any permit, plan approval, inspection or similar act is required by the city as a condition precedent to any activity by or upon property not owned by the city, pursuant to this or any other regulatory ordinance, regulation or rule of the city or under federal or state law, the issuance of such permit, plan approval, or inspection shall not be deemed to constitute a warranty, express or implied, nor shall afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the city, its officers, employees or agents.

(3) The city shall, in addition to all powers and authority reasonably necessary to carry out the general terms, provisions and conditions hereof, and as provided by law, have all the powers and authority as particularly set forth in Tennessee Code Annotated, §§ 68-221-1103, 1104 and 1105, as now enacted or hereafter amended, which provisions are incorporated herein by reference. (as added by Ord. #02-854, June 2002)

18-505. Requirements for on-site stormwater systems; enforcement methods and inspections; operational permits. All property owners and developers of developed real property and/or real property in the process of development or real property altered from its natural state within the City of Red Bank shall provide, manage, maintain and operate on-site storm water systems sufficient to collect, convey, detain, and discharge storm water

in a safe manner consistent with all City of Red Bank development regulations and the laws of the State of Tennessee and the United States of America. To that end, the city manager and public works director, together with the city consulting engineers, shall develop a set of Best Management Practices (BMP) to be submitted to the board of commissioners for approval, modification or rejection by resolution, which upon approval by the board shall be submitted as part of the city's application for such discharge and operational permits as may be required by the State of Tennessee and which thereafter shall be the basis of and standards for the operation of the storm water utility. The city manager and public works director, together with the assistance of the city's engineer, shall also prepare and submit to the proper permitting authorities, such applications, reports, proposals and studies as shall be necessary, desirable and appropriate to obtain and maintain all necessary regulatory permits for the operation of the storm water utility. (as added by Ord. #02-854, June 2002)

18-506. General financing policy. It shall be the policy of the city that funding for the storm water utility be equitably derived through methods which have a demonstrable relationship to the varied demands and impacts imposed on the storm water systems and programs and/or the level of service provided as a result of the provision of storm water services and facilities. Service charges for storm water management shall be fair and reasonable and shall bear a substantial relationship to the cost of providing services and facilities. The cost of storm water services and facilities may include operating, capital investment, and reserve expenses, and may consider storm water quality as well as storm water quality management requirements. Similarly situated properties shall be charged similar rentals, rates, charges, fees, or licenses.

Service charge rates shall be designed to be consistent and coordinated with the use of other funding methods employed for storm water management by the city, whether within or outside the storm water utility, including but not limited to plan review and inspection fees, special fees for services, fees in lieu of regulatory requirements, impact fees, system development charges, and special assessments. To the extent practicable, credits against service charges and/or other methods of funding storm water management shall be provided for on-site storm water control systems and activities constructed, operated, maintained and performed to the city's standards by private property owners. (as added by Ord. #02-854, June 2002)

18-507. Cost analysis and rate study. The city staff, together with its consulting engineer, have conducted a cost of services analysis and rate study, which has been presented to the board of commissioners for their review, consideration and approval, by ordinance, prior to the rendering of any bills to customers of the storm water utility system. (as added by Ord. #02-854, June 2002)

18-508. Enforcement; fines and penalties; damages. (1) Any person who violates the provisions of any ordinance or resolution regulating storm water discharges or facilities shall be subject to a civil penalty of not more than fifty dollars ($50.00) per day for each day of violation(s). Each day of violation shall constitute a separate violation. The city shall give the violator reasonable notice of the assessment of any penalty. The city may also recover all damages proximately caused to the city by such violations.

(2) In assessing a civil penalty, the following factors may be considered:

(a) The harm done to the public health or the environment;

(b) Whether the civil penalty imposed will be substantial economic deterrent to the illegal activity;

(c) The economic benefit gained by the violator;

(d) The amount of effort put forth by the violator to remedy this violation;

(e) Any unusual or extraordinary enforcement costs incurred by the city;

(f) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(g) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(3) The city may also assess damages proximately caused by the violator to the city which may also include any reasonable expenses incurred in investigating and enforcing violations of this part, or any other actual damages caused by the violation.

(4) The city shall establish a procedure for a review of the civil penalty or damage assessment by either the governing body of the city or by a board established to hear appeals by any person incurring a damage assessment or a civil penalty. If a petition for review of such damage assessment or civil penalty is not filed within thirty (30) days after the damage assessment or civil penalty is served in any manner authorized by law, the violator shall be deemed to have consented to the damage assessment or civil penalty and it shall become final. The alleged violator may appeal a decision of the governing body or board pursuant to the provisions of title 27, chapter 8, of the Tennessee Code Annotated.

(5) Whenever any damage assessment or civil penalty has become final because of a person's failure to appeal the city's damage assessment or civil penalty, the city may apply to the appropriate chancery court for a judgment and seek execution of such judgment. The court, in such proceedings, shall treat the failure to appeal such damage assessment or civil penalty as a confession of judgment. (as added by Ord. #02-854, June 2002)

CHAPTER 6

STORM WATER UTILITY SERVICE CHARGE

SECTION

18-601. Findings.
18-602. Definitions.
18-603. Determination and modification of storm water service charges.
18-604. Effective date of storm water service charges.
18-605. Storm water service charges.
18-606. Exemptions and credits applicable to storm water service charges.
18-607. Storm water service charge billing, delinquencies, collections; municipal liens.
18-608. Storm water utility service charges billed in common.

18-601. Findings. The board of commissioners makes the following findings:

An equitable approach to funding storm water management services and facilities can be provided by adopting a schedule of service charges upon properties that is related to the burden of storm water control service requirements and costs posed by properties throughout the city. Such schedule of service charges can be complemented by other funding methods, which address specific needs. A service charge credit is an appropriate means of adjusting services charges in recognition that private storm water systems and/or actions can effectively reduce or eliminate the burden of storm water quantity or quality control service requirements and costs that a property or properties pose for the city. Impervious area is the most importance factor influencing storm water service requirements and costs posed by properties throughout the city, and therefore is an appropriate parameter for calculating storm water service charges and associated credits. In addition, the value to the storm water utility of certain actions and practices performed by property owners and other storm water utility customers may be recognized by credits. (as added by Ord. #02-853, June 2002)

18-602. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Credit" shall mean a conditional reduction in the amount of a storm water service charge to an individual property based on the provision and continuing presence of an effectively maintained and operational on-site storm water system or facility or the provision of a service or activity by property owner, which system, facility, service, or activity reduces the storm water utility's cost of providing storm water services and facilities. Credits for on-site storm water systems shall be generally proportional to the affect that such systems have on the peak rate of runoff from the site.

(2) "Detached dwelling unit" shall mean developed land containing one structure which is not attached to another dwelling and which contains one or more bedrooms, with a bathroom and kitchen facilities designed for occupancy by one family. Detached dwelling units may include houses, manufactured homes and mobile homes located on one or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings, or the presence of a commercial impervious area such as parking spaces, playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses. Detached dwelling unit shall not include developed land containing: structures used primarily for non-residential purposes, manufactured homes and mobile homes located within manufactured home or mobile home parks where the land is used by others than the owners of the manufactured homes or mobile homes, or multiple-unit residential properties.

(3) "Developed land" shall mean property altered from its natural state by construction or by installation of more than 200 square feet of impervious surfaces as defined in this chapter.

(4) "Equivalent residential unit (ERU" of impervious area shall mean the median average impervious coverage of detached dwellings unit properties in the City of Red Bank as determined by the city, and shall be used as the basis for determining storm water service charges to detached dwelling unit properties and other properties. Three thousand five hundred (3,500) square feet of impervious area shall be one equivalent residential unit.

(5) "Developed land" shall mean, but shall not be limited to, multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, churches, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools and universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants.

(6) "Service charges" shall mean the storm water management service charge or charges applicable to a parcel of developed land, which charge shall generally be reflective of the City of Red Bank storm water utility's cost of providing storm water management services and facilities. Service charges will be based on measurable parameters which influence the storm water utility's cost of services and facilities, and may include but are not necessarily limited to the amount of impervious area on each parcel of developed land. The use of impervious area as a service charge rate parameter shall not preclude the use of other parameters, or of grouping of properties having similar characteristics through the use of ranges or rounding up or down to a consistent numerical

interval, or the use of flat-rate charges for one or more classes of similarly situated properties whose impact on the storm water utility's cost of providing storm water management services and facilities is relatively consistent. Storm water service charges may also include special charges to individual customers for services or facilities related to storm water management, including but not limited to charges for development plan review, inspection or development projects and on-site storm water control systems, and enhanced levels of storm water services above those normally provided by the city. (as added by Ord. #02-853, June 2002)

18-603. Determination and modification of storm water service charges. Storm water service charges may be determined and modified from time to time by the city commission so that the total revenue generated by said charges and any other sources of revenue that may be made available to the storm water utility will be sufficient to meet the cost of services and facilities, including but not limited to the payment of principal and interest on revenue bond obligations incurred for consideration and improvements to the storm water system. (as added by Ord. #02-853, June 2002)

18-604. Effective date of storm water service charges. Storm water service charges shall accrue beginning July 1, 2002, and shall be billed periodically thereafter to customers, except as specific exemptions and credits may apply. (as added by Ord. #02-853, June 2002)

18-605. Storm water service charges. In order to fully recover the cost of providing storm water services and facilities while fairly and reasonably apportioning the cost among developed properties throughout the city, the following storm water rates shall apply:

(1) Detached dwelling units. Each detached dwelling unit shall be charged the rate applicable to one (1) equivalent residential unit as specified below, or as amended by ordinance in the future.

(2) Other developed lands. All developed lands not classified as detached dwelling units shall be billed for one equivalent residential unit (ERU) for each three thousand five hundred (3,500) square feet of impervious surface or increment thereof.

(3) Storm water service charge rate per equivalent residential unit (ERU) or increment thereof. The storm water service charge per equivalent residential unit shall be $36.00 per ERU. (as added by Ord. #02-853, June 2002)

18-606. Exemptions and credits applicable to storm water services charges. Except as provided in this section, no public or private property shall be exempt from storm water utility service charges or receive a credit or offset against such service charges. No exception, credit, offset, or other reduction in storm water service charges shall be granted based on the

age, tax, or economic status, race, or religion of the customer, or other condition unrelated to the storm water utility's cost of providing storm water services and facilities.

A Policy for Storm Water Utility Services Charge Credits shall be prepared by the department of public works specifying the design and performance standards of on-site systems, facilities, activities, and services which qualify for application of a service charge credit, and how such credits shall be calculated.

(1) Undeveloped land as defined in this chapter shall be exempt from storm water service charges.

(2) City-owned streets, rights-of-ways and properties shall be exempt from the storm water service charges.

(3) Railroad tracks shall be exempt from storm water service charges. However, railroad stations, maintenance buildings, or other developed land used for railroad purposes shall not be exempt from storm water service charges.

(4) Developed land other than individual detached dwelling units, including but not limited to multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, storage buildings and structures, churches, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools universities, research stations, hospitals and convalescent centers, airports, agricultural uses covered by impervious surfaces, water reservoirs, and water and wastewater treatment plants may receive a storm water service charge credit. The storm water service charge credit shall be determined based on the technical requirements and standards contained in the Policy for Storm Water Utility Service Charge Credits. The storm water service charge credit may be up to fifty (50) percent of the service charge applicable to a property, and shall be proportional to the extent that on-site systems, facilities, services, and activities provided, operated, and maintained by the property owner reduce or mitigate the storm water utility's cost of providing services and facilities.

(5) Any credit allowed against the service charge is conditioned on continuing compliance with the city's design and performance standards as stated in the Policy for Storm Water Utility Service Charge Credits and/or upon continuing provision of the systems, facilities, services, and activities provided, operated, and maintained by the property owner or owners upon which the credit is based. A credit may be revoked by the city at any time for non-compliance.

(6) ERUs which are owned and occupied by low income home owners, aged 65 or older, and who are eligible for the relief from real property ad valorem taxes as provided under the provisions of Tennessee Code Annotated, § 67-5-702, as now existing or hereafter amended, are also exempt from the payment of the storm water utility service charge otherwise provided for in this part on condition that the eligibility requirements for real property ad valorem

tax relief set forth in Tennessee Code Annotated, § 67-5-702 are met and that the procedural requirements for meeting said eligibility requirements are observed and proven to the City of Red Bank and/or its designee, the Hamilton County Trustee. (as added by Ord. #02-853, June 2002, and amended by Ord. #02-865, Nov. 2002)

18-607. Storm water service charge billing, delinquencies, collections; municipal liens. (1) A storm water service charge bill may be sent through the United States mail or by alternative means notifying the customer of the amount of the bill, the date the payment is due, and the date when past due. In accordance with the provisions of Tennessee Code Annotated, § 62-221-1112, any bill rendered by the city shall contain the following statement with respect to the charges and fees: "THIS TAX HAS BEEN MANDATED BY CONGRESS."

(2) Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land shall be ultimately obligated to pay such fee. If a customer is underbilled or if no bill is sent for developed land, the city may backbill for a period of up to one year, but shall not assess penalties for any delinquency if the city shall have failed to send a bill. A one and one-half percent (1.5%) per month late charge shall accrue and shall be billed based on the unpaid balance of any storm water utility services charge that becomes delinquent.

(3) The city is authorized, pursuant to Tennessee Code Annotated, § 68-221-1107(b) to enter into contracts or agreements with public and/or private agencies officials or utilities for the billing collection of the storm water facility user charges or fees and costs authorized by this chapter. Such contracts or agreements may provide for the discontinuance of such utility service for storm water facility users who fail or refuse to pay storm water facility user charges or fees, including the right not to accept payment of the utility bill from any user without receiving the same time payment of any storm water facility charges owed by such user and not to re-establish utility services until such time as all past due storm water facility service charges owed by such user have been paid and/or the user of the storm water facility has performed all acts and discharged all obligations required by the ordinances or resolutions of the city.

(4) The city shall also be authorized to effect collection of the storm water facility user charges or fees by suit in a court of competent jurisdiction in which event attorney fees and costs may be added to the unpaid charge or fee and any late payment charges accrued thereon as provided by subsection (2), supra. (as added by Ord. #02-853, June 2002)

18-608. Storm water utility service charges billed in common. Any customer who believes the provisions of this article have been applied in error may appeal in the following manner:

(1) An appeal must be filed in writing with the City of Red Bank Department of Public Works. In the case of service charge appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the total property area, the impervious surface area, and any other features or conditions which influence the hydrologic response of the property to rainfall events.

(2) Using the information provided by the appellant, the director of the department of public works shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.

(3) In response to an appeal, the director of the department of public works may adjust the storm water service charge applicable to a property in conformance with the general purpose and intent of this article.

(4) A decision of the public works director which is adverse to an appellant may be further appealed to the city manager within thirty (30) days of the adverse decision. Notice of the appeal shall be delivered to the city manager by the appellant, stating the grounds for the further appeal. The city manager shall issue a written decision on the appeal within thirty (30) days. All decisions of the city manager shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer.

(5) All decisions by the city manager shall be final. (as added by Ord. #02-853, June 2002)

CHAPTER 7

STORM WATER

SECTION

18-701. Storm water ordinance.

18-701. Storm water ordinance. (1) General provisions. (a) Program area. This ordinance as enacted is applicable to the City of Red Bank, Tennessee, provided, however, that other participating municipalities are enacting or have enacted, verbatim, similar ordinances, and, accordingly, the provisions hereof are also applicable and uniformly enforceable within the Tennessee municipalities of Collegedale, East Ridge, Lakesite, Lookout Mountain, Ridgeside, Soddy-Daisy, designated unincorporated areas within Hamilton County, and other eligible communities which may join the Hamilton County Storm Water Control Program (hereinafter called the program) and enact this ordinance from time to time. All such participating communities are hereinafter collectively identified as "the parties."

(b) Authorization. The program is authorized under an interlocal agreement dated April 16, 2004, adopted by all of the parties pursuant to Tennessee Code Annotated, (TCA) § 5-1-113 and 12-9-101. Said interlocal agreement specifies that the program shall be enforced by Hamilton County under applicable county rules pursuant to TCA § 5-1-121 and 123. Applicable terms and provisions of said interlocal agreement and the standard operating procedures for the Hamilton County Storm Water Pollution Control Program, adopted by the parties subsequent to the interlocal agreement, are hereby incorporated into and made a part of this ordinance by reference and shall be as binding as if reprinted in full herein.

(c) Purpose. It is the purpose of this ordinance to:

(i) Protect, maintain, and enhance the environment of the program service area and the health, safety, and the general welfare of the citizens by controlling discharges of pollutants to the program's storm water system.

(ii) Maintain and improve the quality of the receiving waters into which the storm water outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and ground water.

(iii) Enable the parties to comply with the National Pollution Discharge Elimination System (NPDES) permit and applicable regulations (40 CFR § 122.26) for storm water discharges. Compliance shall include the following six minimum storm water pollution controls as defined by US EPA:

(A) Public education and outreach

(B) Public participation

(C) Illicit discharge detection and elimination

(D) Construction site runoff control for new development and redevelopment

(E) Post-construction runoff control for new development and redevelopment

(F) Pollution prevention/good housekeeping for municipal operations

(iv) Allow the parties to exercise the powers granted in TCA § 68-221-1105, to:

(A) Exercise general regulation over the planning, location, construction, operation, and maintenance of storm water facilities in the municipalities, whether or not the facilities are owned and operated by the municipalities.

(B) Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits.

(C) Establish standards to regulate storm water contaminants as may be necessary to protect water quality.

(D) Review and approve plans and plats for storm water management in proposed subdivisions or commercial developments.

(E) Issue permits for storm water discharges or for the construction, alteration, extension, or repair of storm water facilities.

(F) Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit.

(G) Regulate and prohibit discharges into storm water facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been contaminated. This regulation and prohibition shall be enforceable on facilities and operations which are in existence at the time of the initial adoption of this ordinance or which may come into existence after the adoption of this ordinance.

(d) Goals of the program. The primary goals of the program are to:

(i) Raise public awareness of storm water issues.

(ii) Generate public support for the program.

(iii) Teach good storm water practices to the public.

(iv) Involve the public to provide and extension of the program's enforcement staff.

(v) Support public storm water pollution control initiatives.

(vi) Increase public use of good storm water practices.

(vii) Detect and eliminate illicit discharges into the program service area.

(viii) Reduce pollutants from construction sites.

(ix) Treat the "first flush" pollutant load to remove not less than 75 percent total suspended solids (TSS).

(x) Remove oil and grit from industrial/commercial site runoff.

(xi) Protect downstream channels from erosion.

(xii) Encourage the design of developments that reduce runoff.

(xiii) Reduce or eliminate pollutants from municipal operations.

(xiv) Provide a model for good storm water practices to the public through municipal operations impacting storm water (i.e., municipalities should "lead by example").

(e) Administering entity. The program staff shall administer the provisions of this ordinance under the direction of the management committee, composed of representatives of the parties. The operating mechanism for the program is defined by an interlocal agreement among the parties and the standard operating procedures adopted by same. The management committee is authorized to enforce this ordinance and to use its judgement in interpreting the various provisions of this ordinance, the interlocal agreement, and the standard operating procedures to ensure that the program's goals are accomplished. If any management committee member is concerned about the appropriateness of any action of the committee, he should report his concerns to the county attorney, who shall review the situation and issue an opinion within 90 calendar days. Should the county attorney find that the committee has, in his judgement, acted inappropriately, but a majority of the committee, after due deliberation, disagree with said finding, the committee shall bring the matter before the county commission for consideration. The determination of the county commission with regard to the issue shall be final.

(2) Definitions. (a) Program-specific terminology. As used herein certain words and abbreviations have specific meanings related to the program. The definition of some, but not necessarily all, such program-specific terms are, for the purposes of this ordinance, to be interpreted as described hereinbelow:

(i) "Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce

the pollution of storm water runoff. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(ii) "BMP manual" is a book of reference which includes additional policies, criteria, and information for the proper implementation of the requirements of the program.

(iii) "First flush" is defined as the initial storm water runoff from a contributing drainage area which carries the majority of the contributed pollutants.

(iv) "Hot spot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in storm water. Examples might include operations producing concrete or asphalt, auto repair shops, auto supply shops, large commercial parking areas, and restaurants.

(v) "Land disturbance activity" means any land change which may result in increased soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including but not limited to clearing, dredging, grading, excavating, transporting, and filling of land, except that the term shall not include agricultural activities, exempted under the Clean Water Act, and certain other activities as identified in the program's BMP manual.

(vi) "Maintenance agreement" means a legally recorded document which acts as a property deed restriction and which provides for long-term maintenance of storm water management practices.

(vii) "Management committee" is a group of people composed of one representative of the county and one representative of each of the cities participating in the program.

(viii) "Municipality" as used herein refers to Hamilton County, Tennessee, a county and political subdivision of the State of Tennessee; the Cities of Collegedale, East Ridge, Lakesite, Red Bank, Ridgeside, and Soddy-Daisy, Tennessee, and the Town of Lookout Mountain, Tennessee, all of which are chartered municipalities of the State of Tennessee; and/or any other participating governmental entity which may join the program in the future.

(ix) "Organization" means a corporation, government, government subdivision or agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(x) "Person" means an individual or organization.

(xi) "Program" refers to a comprehensive program to manage the quality of storm water discharged in or from the program area's municipal separate storm sewer system (MS4).

(xii) "Program cost" refers to any monetary cost incurred by the program in order to fulfill the responsibilities and duties assigned to the program under this ordinance. Program costs specifically include costs incurred by any participating municipality for actions performed on behalf of or at the request of the program.

(xiii) "Program service area" shall consist of the entire physical area within the corporate limits of each participating city together with the urbanized unincorporated area of the county.

(xiv) "Program manager"- See storm water manager.

(xv) "Program staff" is a group of people hired to assist the program manager in carrying out the duties of the program.

(xvi) "Responsible party" means owners and/or occupants of property within the program area who are subject to penalty in case of default.

(xvii) "Runoff"- See storm water runoff.

(xviii) "Runoff quality objectives" refer to the "performance criteria for runoff management" adopted by the management committee in conformance with applicable provisions of paragraph (5)(e) hereinafter in accordance with the "goals of the program" as outlined under paragraph (1)(d) hereinbefore.

(xix) "Redevelopment" means any construction, alteration, or improvement exceeding one (1) acre in areas where existing land use is high density commercial, industrial, institutional, or multi-family residential.

(xx) "Storm water" means stormwater runoff, snow melt runoff, surface runoff and discharge resulting from precipitation.

(xxi) "Storm water manager" is the person selected by the management committee, assigned to the Office of the Hamilton County Engineer, and designated to supervise the operation of the program.

(xxii) "Storm water runoff" means flow on the surface of the ground, resulting from precipitation.

(3) Best Management Practices (BMP) manual. (a) Storm water design or BMP manual. (i) The program will adopt a storm water design and best management practices (BMP) manual (hereafter referred to as the BMP manual), which is incorporated by reference in this ordinance as if fully set out herein.

(ii) This manual will include a list of acceptable BMPs including the specific design performance criteria and operation and maintenance requirements for each storm water practice. The

manual may be updated and expanded from time to time at the discretion of the management committee upon the recommendation of the program staff, based in improvements in engineering, science, and monitoring and local maintenance experience. Storm water facilities that are designed, constructed, and maintained in accordance with these BMP criteria will be presumed to meet the minimum water quality performance standards.

(4) Land disturbance permits required. (a) Mandatory. A land disturbance permit from the program will be required in the following cases:

(i) Land disturbing activity that disturbs one (1) or more acres of land;

(ii) Land disturbing activity that disturbs less than one (1) acre of land if such activity is part of a larger common plan of development that affects one or more acres of land as determined by the program manager.

(iii) Land disturbing activity that disturbs less than one (1) acre of land if, in the discretion of the program staff, such activity poses a unique threat to the water environment or to public health or safety.

(b) Application requirements. (i) Unless specifically excluded by this ordinance, any landowner or operator desiring a permit for a land disturbance activity shall submit to the program staff a permit application on a form provided by the program.

(ii) A permit application must be accompanied by the following:

(A) A sediment and erosion control plan which addresses the requirements of the BMP manual and

(B) A nonrefundable land disturbance permit fee as described in Appendix A[1] to this ordinance.

(iii) The land disturbance permit application fee shall be as established for the program under the provisions of the standard operating procedures.

(c) General requirements. (i) All land disturbing activities undertaken within the program service area shall be conducted in a manner that controls the release of sediments and other pollutants to the storm water collection and transportation system in accordance with the requirements of the program's BMP manual.

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[1]Appendix A to the storm water ordinance can be found at the end of this chapter.

(d) Review and approval of application. (i) The program staff will review each application for a land disturbance permit to determine its conformance with the provisions of this ordinance. The program staff shall complete the review of an application within 30 calendar days of its submission. Should an application be rejected, an additional 30 calendar days will be allowed for staff review of each subsequent submission of a revised application. If the program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default. No development shall commence until the land disturbance permit has been approved by the program staff or until the time limit allowed for review has expired.

(ii) Each land disturbance permit shall be issued for a specific project and shall expire 12 months after its issuance. The applicant is solely responsible for the renewal of a permit if work is to continue after the expiration of the permit. Renewal will require payment of an additional land disturbance permit fee.

(e) Transfer of permit. (i) Land disturbance permits are transferable from the initial applicant to another party. A notice of transfer, on a form acceptable to the program and signed by both parties, shall be filed with the program staff. Such transfer shall not automatically extend the life of the existing permit or in any other way alter the provisions of the existing permit.

(5) Runoff management permits. (a) Mandatory. (i) A runoff management permit will be required in the following cases:

(A) Development, redevelopment, and/or land disturbing activity that disturbs one or more acres of land;

(B) Development, redevelopment, and/or land disturbing activity that disturbs less than one acre of land if such activity is part of a larger common plan of development that affects one or more acres of land as determined by the program manager.

(b) Runoff management. Site requirements, as fully described in the BMP manual, shall include the following items:

(i) Record drawings;

(ii) Implementation of landscaping and stabilization requirements;

(iii) Inspection of runoff management facilities;

(iv) Maintenance of records of installation and maintenance activities; and

(v) Identification of person responsible for operation of maintenance of runoff management facilities.

(c) Application requirements. (i) Unless specifically excluded by this ordinance, any landowner or operator desiring a runoff

management permit for a development, redevelopment, and/or land disturbance activity shall submit a permit application on a form provided by the program.

(ii) A permit application must be accompanied by:

(A) Storm water management plan which addresses specific items as described in the BMP manual;

(B) Maintenance agreement for any pollution control facilities included in the plan; and

(C) Nonrefundable runoff management permit fees as described in Appendix A[1] to this ordinance.

(iii) The application fees for the runoff management permit shall be as established by the program under the provisions of the standard operating procedures.

(d) Building permit. No building permit shall be issued by a participating municipality until a runoff management permit, where the same is required by this ordinance, has been obtained.

(e) General performance criteria for runoff management. Unless a waiver is granted or exempt certification is issued, all sites, including those exempted under paragraph (5)(g) below are required to satisfy the following criteria as specified in the BMP manual (whether permitted or not):

(i) Through the selection, design, and maintenance of temporary and permanent BMPs, provide pollution control for sources of contaminants and pollutants that could enter storm water.

(ii) Protect the downstream water environment from degradation including specific channel protection criteria and the control of the peak flow rates of storm water discharge associated with design storms shall be as prescribed in the BMP manual.

(iii) Implement additional performance criteria or utilize certain storm water management practices to enhance storm water discharges to critical areas with sensitive resources (e.g., cold water fisheries, shellfish beds, swimming beaches, recharge areas, water supply reservoirs).

(iv) Implement specific storm water treatment practices (STP) and pollution prevention practices for storm water discharges from land uses or activities with higher-than-typical potential pollutant loadings, known as "hot spots."

(v) Prepare and implement a storm water pollution prevention plan (SWPPP) and file a notice of intent (NOI) under

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[1]Appendix A to the storm water ordinance can be found at the end of this chapter.

the provisions of the NPDES general permit for certain industrial sites which are required to comply with NPDES requirements. The SWPPP requirement applies to both existing and new industrial sites. The owner or developer shall obtain the general permit and shall submit copies to the storm water manager.

(vi) Prior to or during the site design process, consult with the program staff to determine if a planned development is subject to additional storm water design requirements.

(vii) Use the calculation procedures as found in the BMP manual for determining peak flows to use in sizing all storm water facilities.

(f) Review and approval of application. (i) The program staff will review each application for a runoff management permit to determine its conformance with the provisions of this ordinance. The program staff shall complete the review of an application within 30 calendar days of its submission. Should an application be rejected, an additional 30 calendar days will be allowed for staff review of each subsequent submission of a revised application. If the program staff fails to act within the time limit established hereinbefore, an application shall be presumed to be approved by default.

(ii) No development shall commence until the runoff management permit has been approved by the program staff or until the time limit allowed for review has expired.

(g) Waivers. (i) General. Every applicant shall provide for storm water management; unless a written request to waive this requirement is filed with and approved by the program.

(ii) Downstream damage, etc. prohibited. In order to receive a waiver, the applicant must demonstrate to the satisfaction of the management committee that the waiver will not lead to any of the following conditions downstream:

(A) Deterioration of existing culverts, bridges, dams, and other structures;

(B) Degradation of biological functions or habitat;

(C) Accelerated streambank or streambed erosion or siltation;

(D) Increased threat of flood damage to public health, life, or property.

(iii) Runoff management permit not to be issued where waiver granted. No runoff management permit shall be issued where a waiver has been granted pursuant to this section. If no waiver is granted, the plans must be resubmitted with a runoff management plan. All waivers must be adopted by a majority of the management committee meeting in open session pursuant to

the program's standard operating procedures. The applicant shall prepare an agreement which shall formalize the applicant's commitment to implement all actions proposed by the applicant and relied on by the management committee in granting the waiver. Said agreement, once determined to be acceptable to the management committee, shall be executed by an authorized representative of the applicant and the chairman of the management committee. The executed agreement shall form a binding contract between the applicant and the program, and the terms of said contract shall be fully enforceable by the program staff. The program staff's authority to enforce the terms of the waiver agreement shall be identical to those typically exercised by the staff with regard to the implementation of runoff management plans. No construction activities shall commence at a site covered by a waiver until the waiver agreement is fully executed.

(6) Non-storm water discharge permits. (a) Commercial and industrial facilities. Commercial and industrial facilities located within the program service area may in certain situations be allowed to discharge nonpolluting non-storm water into the storm water collection system. As allowed by Tennessee Department of Environment and Conservation (TDEC) regulations, certain non-storm water discharges may be released without a permit. A listing of such allowed discharges in included in section (9) which follows. Except for these discharges, a permit for all nonpolluting non-storm water discharges shall be required in addition to any permits required by the State of Tennessee for storm water discharges associated with industrial or construction activity.

(b) New facilities. The permit application for a new facility requesting non-storm water discharges shall include the following:

(i) If the facilities are to be covered under the TDEC general NPDES permit for storm water discharges associated with industrial activity, a general NPDES permit for storm water discharges associated with construction activity, or an individual NPDES permit, the owner or developer shall timely obtain such permits or file the NOI and shall submit copies to the program.

(ii) Any application for the issuance of a non-storm water discharge under this article shall include the specific items listed in the program's BMP manual.

(iii) Each application for a non-storm water discharge permit shall be accompanied by payment of a non-storm water discharge permit fee as described in Appendix A[1] to this ordinance.

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[1]Appendix A to the storm water ordinance can be found at the end of this chapter.

Said fee shall be established under the provisions of the standard operating procedures for the program.

(c) Review and approval of application. (i) The program staff will receive each application for a non-storm water discharge permit to determine its conformance with the provisions of this ordinance. Within 30 calendar days after receiving an application, the program staff shall provide one of the following responses in writing:

(A) Approval of the permit application;

(B) Approval of the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance, and issuance of the permit subject to these conditions; or

(C) Denial of the permit application, indicating the reason(s) for the denial.

(d) Permit duration. Every non-storm water discharge permit shall expire within three (3) years of issuance subject to immediate revocation if it is determined that the permittee has violated any of the terms of the permit or if applicable regulations are revised to no longer allow the specific non-storm water discharge covered by the permit.

(7) Program remedies for permittee's failure to perform. (a) Failure to properly install or maintain sediment and erosion control measures.

(i) If a responsible party fails to properly install or maintain sediment and/or erosion control measures as shown on a sediment and erosion control plan used to secure a land disturbance permit under the program, the program staff is authorized to act to correct the deficiency or deficiencies.

(ii) The program manager is hereby authorized to issue a "Stop Work Order" to the responsible party in any situation where the program manager believes that continued work at a site will result in an increased risk to the public safety or welfare or the downstream water environment. Upon receipt of such a "Stop Work Order," the responsible party shall immediately cease all operations at the site except those specifically directed toward correcting the deficiency or deficiencies in the sediment and/or erosion control measures.

(iii) Where the deficiency or deficiencies described hereinbefore do not, in the opinion of the storm water manager, pose an imminent threat to the public safety or welfare or the downstream water environment, the program staff shall notify in writing the responsible party of the deficiency or deficiencies. The responsible party shall then have 48 hours to correct the deficiency or deficiencies, unless exigent or other unusual circumstances dictate a longer time. In the event that corrective action is not

completed within that time, the program staff may take necessary corrective action.

(iv) Where, in the opinion of the storm water manager, the deficiency or deficiencies described hereinbefore do pose an imminent threat to the public safety or welfare or the downstream water environment, the program staff may immediately act to correct the deficiency or deficiencies by performing or having a third party perform all work necessary to restore the proper function of the sediment and erosion control system. The responsible party will be informed, in writing, as to the actions of the program staff as soon as practicable following implementation of the corrective action. The program staff may request assistance from the staff of any community participating in the program to perform the "third party" corrective work described in this paragraph.

(v) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to properly install and/or maintain sediment and erosion control measures in accordance with a land disturbance permit may subject the responsible party to a civil penalty from the program as described in a subsequent section of this ordinance.

(b) Failure to meet or maintain design maintenance standards for runoff management facilities. (i) If a responsible party fails or refuses to meet the design or maintenance standards required for runoff management facilities under this ordinance, the program staff, after reasonable notice, may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition.

(ii) In the event that the runoff management facility is determined to be improperly operated or maintained, the program staff shall notify in writing the party responsible for maintenance of the storm water management facility. Upon receipt of that notice, the responsible party shall have 14 days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the program staff may take necessary corrective action.

(iii) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party's failure to meet the design or maintenance standards of an approved runoff management plan may subject the responsible party to a civil penalty from the program as described in a subsequent section of this ordinance.

(8) Existing locations and developments. (a) Requirements for all existing locations and developments. Requirements applying to all locations and developments at which land disturbing activities occurred prior to the enactment of this ordinance are described in the BMP manual.

(b) Inspection of existing facilities. The program may, to the extent authorized by state and federal law, establish inspection programs to verify that all storm water management facilities, including those built both before and after the adoption of this ordinance, are functioning within design limits as established within the program BMP manual. These inspection programs may include but are not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as sources of increased sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with increased discharges of contaminants or pollutants or with discharges of a type more likely than the typical discharge to cause violations of the municipality's NPDES storm water permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to reviewing maintenance and repair records; sampling discharges, surface water, ground water, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

(c) Requirements for existing problem locations. (i) The program shall provide written notification to the owners of existing locations and developments of specific drainage, erosion, or sediment problems originating from such locations and developments and the specific actions required to correct those problems.

(ii) The notice shall also specify a reasonable time for compliance.

(iii) Should the property owner fail to act within the time established for compliance, the program may act directly to implement the required corrective actions.

(iv) The cost of any action to the program incurred under this section shall be charged to the responsible party. In addition, the responsible party shall be responsible for the proper maintenance and operation of any facility or facilities installed as a part of the corrective action. Failure of the responsible party to properly install, operate, and/or maintain the facility or facilities installed as part of the corrective action may subject the responsible party to a civil penalty from the program as described in a subsequent section of this ordinance.

(d) Corrections of problems subject to appeal. Corrective measures imposed by the storm water utility under this section are subject to appeal under section(13) of this ordinance.

(9) Illicit discharges. (a) Scope. This section shall apply to all water generated on developed or undeveloped land entering any separate storm sewer system within the program service area.

(b) Prohibition of illicit discharges. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of storm water except as permitted under section (6) of this ordinance or allowed as described below. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm sewer system is prohibited except as described as follows:

(i) Uncontaminated discharges from the following sources:

(A) Water line flushing
(B) Landscape irrigation
(C) Diverted stream flows
(D) Rising ground water
(E) Uncontaminated ground water entering the storm water collection system as infiltration (Infiltration is defined as water, other than wastewater, that enters the storm sewer system from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
(F) Pumped ground water determined by analysis to be uncontaminated
(G) Discharges from potable water sources
(H) Foundation drains
(I) Air conditioning condensate
(J) Irrigation water
(K) Springs
(L) Water from crawl space pumps
(M) Footing drains
(N) Lawn watering
(O) Individual residential car washing
(P) Flows from riparian habitats and wetlands
(Q) Dechlorinated swimming pool discharges
(R) Street washwater.

(ii) Discharges specified in writing by the program as being necessary to protect public health and safety.

(iii) Dye testing, if the program has so specified in writing.

(c) Prohibition of illicit connections. (i) The construction, use, maintenance, or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

(ii) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(d) Reduction of storm water pollutants by the use of BMPs. Any person or party responsible for the source of an illicit discharge may be required to implement, at the person's or party's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(e) Notification of spills. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information on any known or suspected release which has resulted, or may result, in illicit discharges of non-allowed pollutants into the storm water conveyances of the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event that such a release involves hazardous materials, the person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, the person shall notify the program staff in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the program staff within three (3) business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

(f) Enforcement. (i) Enforcement authority. The storm water manager or his designees shall have the authority to issue notices of violation and citations and to impose the civil penalties provided in this section.

(ii) Notification of violation. (A) Written notice. Whenever the storm water manager finds that any permittee or any other person discharging non-storm water has violated or is violating this ordinance or a permit or order issued hereunder, the storm water manager may

serve upon such person written notice of the violation. A copy of any such notice shall be sent to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. Within ten (10) days of this notice, an explanation of the violation and a plan for the correction and prevention thereof, to include specific required actions, shall be prepared by the discharger and submitted to the storm water manager. Submission of this plan and/or acceptance of the plan by the program staff in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(B) Consent orders. The storm water manager is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to paragraphs (D) and (E) below.

(C) Show cause hearing. The storm water manager may order any person who violates this ordinance or permit or order issued hereunder to show cause why a proposed enforcement action should not be taken. Notice shall be served on the person specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the violator show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing.

(D) Compliance order. When the storm water manager finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures and devices be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the

construction of appropriate structures, installation of devices, self-monitoring, and management practices.

(E) Cease and desist orders. When the storm water manager finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the storm water manager may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

(1) Comply forthwith; or

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(iii) Civil penalties. (A) Assessment of penalties: In addition to the authority granted to the storm water manager in the preceding paragraphs to address illicit discharge violations, the storm water manager may, in accordance with the provisions of section (12) of this ordinance, impose a civil penalty on the party responsible for an illicit discharge.

(B) Appeals: All penalties assessed under this section may be appealed in accordance with the provisions of section (13) of this ordinance.

(10) Conflicting standards. (a) Conflicting standards. Whenever there is a conflict between any standard contained in this ordinance, any BMP manual adopted by the program under this ordinance, or any applicable state or federal regulation, the strictest standard shall prevail.

(11) Program fees. (a) Annual program fees. The program shall be financed primarily through an annual fee charged to all residential, commercial, and industrial storm water dischargers located within the program service area.

(i) Initial annual program fees. (A) Residential properties: A single residential annual fee of $8.50 shall be adopted initially for all households in the program service area. Property used for agricultural or residential purposes and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall be charged a residential annual program fee as described above. Multifamily residential complexes shall be charged one residential annual program fee for each unit in the complex regardless of the actual occupancy of a given unit. Manufactured home parks and developments shall be charged one residential annual program fee

for each space in the development regardless of the actual occupancy of a given space.

(B) Commercial and industrial properties: Property used for commercial or industrial purposes within the program service area and shown with a structure or structures of some positive value on the records of the Hamilton County Assessor of Property shall initially be charged an annual fee of $107 per impervious acre of development on the property but not less than the annual residential program fee.

(C) Governmental, institutional, other tax-exempt properties, and properties exempted by statute or action of the management committee shall not be charged an annual program fee.

(ii) Annual fee revision procedures: The annual program fee shall only be changed through the following multi-step procedure:

(A) During the first quarter of each calendar year, the storm water manager shall perform a review of the program's financial condition, including an estimate of probable income and expenses for the upcoming year. Should the annual review indicate that the program will experience a significant budget imbalance in the coming year, the storm water manager shall present to the management committee a request to revise the annual fee structure to correct the imbalance.

(B) The management committee shall, at the next meeting following the receipt of the storm water manager's recommendation, examine the annual financial review and the storm water manager's recommendation for the adjustment in the annual fees. If no regular meeting of the management committee is scheduled within 30 calendar days of the issuance of the storm water manager's recommendation, the chair of the committee shall call a special meeting. The management committee shall be free to adjust the proposed revisions, if any, in the amounts of the annual fees to any amounts which are supported by three-fourths of the members of the management committee.

(C) Once the management committee adopts an annual fee revision recommendation, the storm water manager shall prepare a draft resolution incorporating the recommendation for action by the Hamilton County Commission. The storm water manager shall submit the

draft resolution for consideration at an upcoming meeting of the county commission, as allowed by the rules and procedures of the county commission. The county commission may adopt the recommendation, reject the recommendation, or adopt a different annual fee revision based on their own assessment of the program's financial situation, subject to the limitations described in the interlocal agreement establishing the program. The action of the county commission shall be final.

(iii) Annual fee incorporation in municipal storm water fee: Nothing contained herein shall prohibit or restrict any participating municipality from enacting and collecting an annual storm water fee within its own jurisdictional boundaries which is higher than the program's annual fee. The program's annual fee shall be incorporated in the municipality's annual fee. The municipality may collect and utilize the excess funds derived from a higher annual storm water fee to address storm water issues within its boundaries as the municipality judges to be in its own best interest.

(b) Special program fees. The program shall be allowed to charge special program fees to individuals and organizations for specific activities which require input from the program staff. Because of the service-related nature of the special program fees, they shall be applicable to all storm water dischargers located within the program service area, including dischargers who may be exempt from the annual program fee. Special program fees shall comply with the following provisions:

(i) Types: Special program fees may be charged for the following types of services:

(A) Development plans review: Any person or organization with planned construction that will disturb one acre or more shall submit development plans to the program staff which describe in detail the planned construction's conformance with the program requirements for storm water pollution control at the site of the development. "Disturb" as used in this section shall identify any activity which covers, removes, or otherwise reduces the area of existing vegetation at a site, even on a temporary basis.

(B) Erosion control plans review: Any person or organization with planned construction that will disturb one acre or more shall submit erosion control plans to the program staff which describe in detail the planned construction's conformance with program requirements for erosion control at construction sites. It is understood that

the erosion control plans review fee shall include on-site inspections by qualified member(s) of the program staff of the installed erosion control measures as defined by the approved erosion control plans.

(C) Erosion control non-compliance re-inspection: Should any on-site inspection of installed erosion control measures reveal that the measures have been improperly installed, prematurely removed, damaged, or have otherwise failed and that such deficiency does not pose an imminent threat to the public safety or welfare or the downstream water environment, the program shall inform the responsible party of the deficiency, the responsible party's obligation to bring the installation into compliance with the approved plan, and the assessment of a re-inspection fee. The re-inspection fee shall reimburse the program for the costs associated with an inspector's returning to a specific site out of the normal inspection sequence.

(D) Non-storm water discharge permit review: Commercial and industrial facilities located within the program service area may be allowed to discharge non-polluting wastewater into the storm water collection system. All such discharges, unless covered by a permit issued directly by TDEC or successor agency, must be covered by a discharge permit issued by the program staff and renewed annually. Fees charged by the program for such non-storm water discharge permits will include the costs of the periodic sampling and testing of the discharge, determination of the amount of the discharge, and any costs associated with reviewing and issuing the permit and maintaining necessary records pertaining to the permit.

(E) Residential development retention/detention basin lifetime operation and maintenance fee. The ownership of the property containing a dry detention basin constructed as a part of an approved runoff management plan for a residential development composed of multiple, individually owned lots shall be permanently transferred to Hamilton County, Tennessee, in accordance with the property transfer procedures of the county. In addition, the developer of the residential development shall pay a lifetime operation and maintenance fee to the program for each retention/detention basin. All such fees received by the program shall be deposited in an investment account and the earnings of the account shall be used to pay for the

maintenance, repair, and operation of the retention/detention basins transferred to the ownership of the county.

(F) Other: The management committee may from time to time identify other specific activities which warrant a special program fee. No such fee shall be enacted unless it is endorsed by the county mayor and approved by the county commission. Procedures for establishing a special program fee other than those identified above shall generally comply with the procedures for making revisions to the annual program fee as described in the preceding section.

(ii) Initial special program fees: The initial amounts of the various special program fees shall be as noted in Appendix A[1] to this ordinance.

(iii) Special program fee revision procedures: Special program fees shall be changed only through the following multi-step procedure:

(A) The storm water manager shall review the special program fees during the annual program financial review required under the "annual fee revision procedures" described in a previous section. The storm water manager shall determine the financial viability of each special program fee and present to the management committee requests for revision of those fees, if any, which the storm water manager believes should be adjusted.

(B) Once the storm water manager has submitted his or her recommendations, revisions of the special program fees shall comply with the procedures for management committee review and county commission action identified under the "annual fee revision procedures" described hereinbefore.

(12) Penalties. (a) Violations. Any person who shall commit any act declared unlawful under this ordinance, who violates any provision of this ordinance, who violates the provisions of any permit issued pursuant to this ordinance, or who fails or refuses to comply with any lawful communication or notice to abate or take corrective action required by the program, shall be guilty of a civil offense.

(b) Penalties. Under the authority provided in TCA § 68-221-1106, the program declares that any person violating the provisions of

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[1]Appendix A to the storm water ordinance can be found at the end of this chapter.

this ordinance may be assessed a civil penalty by the program of not less than fifty dollars ($50.00) and not more than five thousand dollars ($5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation. Applicable penalties for some specific violations are outlined in the enforcement protocol described in Appendix B[1] of this ordinance.

(c) Measuring civil penalties. In assessing a civil penalty, the storm water manager may consider:

(i) The harm done to the public health or the environment;

(ii) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(iii) The economic benefit gained by the violator;

(iv) The amount of effort put forth by the violator to remedy this violation;

(v) Any unusual or extraordinary remedial or enforcement costs incurred by the program or any participating municipality;

(vi) The amount of penalty established by ordinance or resolution for specific categories of violations; and

(vii) Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

(d) Recovery of damages and costs. In addition to the civil penalties in subsection (b) above, the program may recover:

(i) All damages proximately caused by the violator, which may include any reasonable expenses incurred in investigating violations of and enforcing compliance with this ordinance, or any other actual damages caused by the violation.

(ii) The costs of maintenance of storm water facilities when the user of such facilities fails to maintain them as required by this ordinance.

(e) Other remedies. The program or any participating municipality may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

(f) Remedies cumulative. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

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[1]Appendix B to the storm water ordinance can be found at the end of this chapter.

(13) Appeals. All actions of the program staff, except for possible criminal violations which the staff has reported to the appropriate enforcement agency, shall be subject to an appeals process under the initial jurisdiction of the management committee. Appealable staff actions specifically include the assessment of civil penalties. Following receipt of a written "notice of appeal" from an appellant, the appeals process shall function as follows:

(a) Administrative review. An administrative review of all appeals and/or requests for review shall initially be conducted by the storm water manager. The storm water manager shall review the record of the situation and, if the storm water manager is not satisfied that both of the following conditions have been met, the storm water manager shall notify the appellant of the finding and grant the relief or a portion of the relief, as determined by the storm water manager, sought by the appellant:

(i) The matter under dispute has been handled correctly by the program staff under the applicable rules and procedures of the program.

(ii) The matter under dispute has been handled fairly by the program staff and the appellant has not, in any way, been treated differently than other dischargers with similar circumstances.

If the storm water manager determines that both items (i) and (ii) immediately above have been satisfied, the storm water manager shall notify the appellant in writing that no relief can be granted at the program staff level and that the appellant is free to pursue the appeal with the management committee. Such notification shall include instructions as to the proper procedure for bringing the matter before the committee. Notification shall be made by hand-delivery; verifiable facsimile transmission; or certified mail, return receipt requested. A copy of the notification shall be provided to the management committee member representing the municipality in which the discharger is located and other administrative official as designated by each participating community. The storm water manager shall complete the review and issue an opinion within 20 calendar days of the receipt of the appeal.

(b) Committee hearing. Appeals rejected by the storm water manager, in accordance with the procedure outlined immediately above, may be brought before the management committee. Within 30 calendar days of receipt of a notification of an appeal, the committee shall determine if the appeal is to be heard by the committee as a whole, if the matter is to be referred to a standing subcommittee, or if a new subcommittee is to be appointed specifically to hear the appeal. If a special committee is appointed, the officer presiding at the meeting of the management committee at which the special subcommittee is appointed shall name a chair and vice chair for said subcommittee. Once the

appropriate forum for the appeal is decided, a date and time for hearing the appeal shall be set. Such date and time shall be within 15 calendar days following the date of the management committee's initial considerations regarding the appeal.

(c) Hearing procedures. Appeal hearings shall be conducted in a formal and orderly manner. However, the hearing is not a "court of law" and the rules of evidence, testimony, and procedures for such courts shall not apply. The storm water manager or his designee shall first brief the committee or subcommittee on the history of the situation, including the actions of the program staff leading up to the appeal. The appellant shall then present his or her arguments as to why the relief sought should be granted. The storm water manager or his designee shall then have the opportunity to rebut or refute the appellant's arguments. The committee or subcommittee shall then conduct deliberations concerning the appeal in an open session. During such deliberations, the members may ask questions of and/or seek additional input from the appellant or the program staff to clarify the situation. At the close of these deliberations the committee or subcommittee shall vote to accept or reject the appeal or to adopt a modified position regarding the matter in question. The outcome of this vote shall be considered the final action of the program with regard to the appeal. The chair of the committee or subcommittee hearing the appeal shall prepare a written order reflecting the committee's or subcommittee's determination regarding the appeal. A tape recording, minutes, or other record of the hearing shall be made and maintained by the program staff.

(d) Appealing decisions of the management committee. Any appellant dissatisfied with the decision of the management committee, as described in the preceding paragraph, may appeal the management committee's decision by filing an appropriate request for judicial review to the Chancery Court of Hamilton County.

(14) Implementation schedule. (a) Discharge permit. The program is authorized under National Pollutant Discharge Elimination System (NPDES) Permit No. TNS075566 issued by the Tennessee Department of Environment and Conservation (TDEC), Division of Water Pollution Control, which expires February 26, 2008. It is anticipated that subsequent permits will be issued to the program under the same permitting authority. All applicable provisions of the current or any subsequent permit shall be enforceable by the program as if fully spelled out herein. Implementation of certain aspects of the program shall comply with the specific schedule included in the permit.

(b) Implementation schedule

Description	Effective Date
Prohibition of Illicit Discharges (Ordinance Section 9)	January 1, 2006
Prohibition of the Release of Sediments and Erosion Products from a Land Disturbance Site (Ordinance Section 4, Paragraph C)	January 1, 2006
Implementation of the Land Disturbance Permit Program (Ordinance Section 4)	January 1, 2008
Implementation of the Runoff Management Permit Program (Ordinance Section 5)	January 1, 2008
Implementation of the Non-Storm Water Discharge Permit Program (Ordinance Section 6)	January 1, 2008

(15) Overlapping jurisdiction. The State of Tennessee, working through the Tennessee Department of Environment and Conservation (TDEC), is or may be required by federal regulations to address storm water pollution issues in ways which appear to overlap the goals and requirements of the program described by this ordinance. Where such overlaps occur and where TDEC's regulations and determinations are more restrictive, the TDEC regulations and determinations shall control.

A requirement to comply with TDEC regulations and determinations shall not, in any way, relieve any party from complying with the provisions of this ordinance. (as added by Ord. #05-910, Oct. 2005)

APPENDIX A

SPECIAL PROGRAM FEES

1. Each application for a **Land Disturbance Permit** shall be accompanied by a minimum nonrefundable fee of $100 plus an additional $5 per each additional disturbed acre, or part thereof in excess of one (1) acre.

2. Each application for a **Runoff Management Permit** shall be accompanied by a minimum nonrefundable fee of $100 plus an additional $5 per each additional disturbed acre, or part thereof, in excess of one (1) acre.

3. If an inspector returns to a specific site out of the normal inspection sequence, an **Erosion Control Non-Compliance Re-inspection Fee** of $50 will be assessed for each inspection visit prompted by erosion control measures found to be out of compliance with permit requirements.

4. Each application for a **Non-Storm Water Discharge Permit** shall be accompanied by a minimum nonrefundable fee of $150 per facility.

5. Residential developments containing a common retention/detention facility shall be charged a **Lifetime Operation and Maintenance Fee** based on total pond volume computed from the design water level associated with a 25-year storm event:

a. Dry detention basin: $2,500 per acre-foot of pond volume.

b. Retention (wet)/detention basin: $5,000 per acre-foot of pond volume. Under this fee neither Hamilton County nor the Program accepts responsibility for the upkeep, maintenance, and/or operation of basin amenities such as retaining walls, shoreline treatments, walkways, boardwalks, docks, fountains, mechanical aeration devices, lighting, and other aesthetic enhancements. Provisions for the maintenance and operation of such amenities must be included in the facility's Runoff Management Plan.

APPENDIX B

STORM WATER MANAGEMENT ENFORCEMENT PROTOCOL

The following protocol shall be employed in enforcement of this ordinance, subject to the authority of the Management Committee to make reasonable adjustments to the civil penalties mandated hereinafter to reflect the specifics of each enforcement action.

At any time, a show cause hearing may be ordered if this protocol is unclear or inadequate to address specific violations of the ordinance. This protocol does not in any way deter the Storm Water Manager from entering into a consent order to eliminate illicit discharges in lieu of other enforcement actions.

This protocol may be adjusted and amended from time to time by action of the Management Committee and approval by the Hamilton County Commission.

1. Land Disturbing Activities Without Obtaining Necessary Land Disturbing Permit

(a) First Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; civil penalty equal to cost of permit.

(b) Second Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; issuance of civil penalty of $500.00 plus damages consisting of cost of permit and costs to the Program associated with the enforcement of article.

(c) Each Additional Offense (Property Owner and Contractor) - Cease and desist order; notice of violation; obtain required permit including payment of associated fee; issuance of civil penalty of $1,000.00 plus damages consisting of cost of permit and three times the costs to the Program associated with the enforcement of article.

(d) Failure to Properly Transfer Land Disturbing Permit - Cost of new permit.

(e) Failure to Request Extension of Permit - Cost of new permit.

Note: Enforcement under this guidance is contractor- and property owner-specific, not site-specific. For instance, if Contractor A receives a notice of violation for a first offense, a civil penalty is to be issued against Contractor A for the second offense occurring within three (3) years of the previous notice of an offense, regardless of the property owner or location.

2. Failure to Comply with Required Sediment and Erosion Control Procedures (These protocols are enforceable on all land disturbance sites, including sites which are not required to obtain a Land Disturbance Permit).

(a) Failure to Install, Maintain, or Use Proper Construction Entrance (Tracking Mud on Street)

(1) First Offense - Notice of violation issued to permit applicant (or responsible party, if no permit is required) including a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(2) Second Offense - Issuance of civil penalty against permit applicant (or responsible party, if no permit is required) of $100.00 per day; issuance of a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(3) Each Additional Offense - Issuance of civil penalty against permit applicant (or responsible party, if no permit is required) of $250.00 per day; issuance of a directive to remove mud, debris, or construction materials deposited in a public roadway. If the Program Manager determines that the deposited materials represent an immediate danger to the public health or welfare, the Program will have said materials removed as quickly as practical without notice to any party. Costs for such removal by the Program, including any costs sustained by the affected municipality, will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager. The Program Manager may, at his discretion, issue a cease and desist order to the project effective until the deficiencies with the construction entrance are rectified.

Note: Failure to Act as Directed - Failure of the permit applicant (or responsible party, if no permit is required) to remove any mud, debris, or construction material that is deposited in a public roadway, within the time period specified in the directive included in the notice of violation, will lead to an

additional civil penalty of $250.00 per incident plus three times the cost of the Program's expenses to have the material removed to protect the safety of the public.

(b) Failure to Install, Maintain, or Use Proper Structural Erosion or Sediment Controls During the Conduct of a Land Disturbance Activity (Sediment Discharge)

(1) First Offense - Notice of violation issued to permit applicant (or responsible party, if no permit required). Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to the responsible party. Costs for such actions by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(2) Second Offense - Notice of Violation issued to land disturbing permit applicant (or responsible party, if no permit is required); "stop work order" enforced until necessary erosion and sedimentation controls are installed or maintained. Formerly permit-exempt projects will be required to obtain land disturbing permit. Notice of Violation require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to any party. Costs for such actions by the Program will be assessed against the permit applicant or responsible party as deemed appropriate by the Program Manager.

(3) Each Additional Offense - Issuance of civil penalty of $500.00 per discharge point per discharge to permit applicant; notice of violation issued to land disturbing permit applicant; "stop work order" enforced until necessary erosion and sedimentation

controls are installed or maintained. Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. If the Program Manager determines that the discharged sediments and/or the deficient erosion and sediment controls represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed and/or the required controls installed as quickly as practical without notice to any party. Costs for such actions by the Program will be assessed against the permit applicant.

Note: Failure to Act as Directed - Failure of the permit applicant or responsible party (if no permit is required) to remove any discharged sediments and/or install erosion and sediment control measures within the time period specified in the directive included in the notice of violation will lead to an additional civil penalty of $250.00 per incident plus three times the cost of the Program's expenses to have the material removed and/or install the required measures.

(iii) Failure to Install, Maintain, or Use Proper Structural Erosion or Sediment Controls Following Completion of a Land Disturbance Activity (Sediment Discharge)

(1) Site Requiring a Land Disturbance Permit - Issuance against property owner of notice of violation for the release of unacceptable amounts of sediments from the site following the submission to the Program of a "Notice of Termination" of temporary site erosion and sediment controls. Notice of violation will require the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures a d conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. Mandatory correction measures may include the installation of temporary erosion and sediment controls. If the Program Manager determines that the discharged sediments represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed as quickly as practical without notice to the property owner. Costs for such actions by the Program will be assessed against the property owner.

(2) Site Not Requiring a Land Disturbance Permit - Issuance of notice of violation requiring the immediate clean-up of sediment discharged into streets, rights-of-way, or storm water structures or conveyances. Notice of violation will also require the correction of all erosion and sediment control deficiencies within a specified time frame. Mandatory correction measures may include the installation of temporary erosion and sediment controls. If the Program Manager determines that the discharged sediments represent an immediate danger to the public health or welfare or an imminent threat to the water environment, the Program will have the sediments removed as quickly as practical without notice to the property owner. Costs for such actions by the Program will be assessed against the property owner.

Note: Failure to Act as Directed - Failure of the property owner to remove any discharged sediments and/or install erosion and sediment control measures within the time period specified in the directive included in the notice of violation will lead to an additional civil penalty of $250.00 per incident plus three times the cost of the Program's expenses to have the material removed and/or install the required measures.

3. Failure to Comply with Approved Runoff Management Plan

(a) Upon Discovery of Variation with Approved Plan - Written notification to the permit applicant that construction does not match approved plans and that if modifications are to be accepted, revised plans must be submitted for review and approval. Submittal of revised plans shall require payment of an additional permit review fee.

(b) Failure to Conform with Approved Plan - Program Inspectors shall not authorize issuance of a "Certificate of Occupancy" or "Final Plat Approval" until runoff management measures complying with an approved plan are fully operational.

4. Failure to Satisfy Minimum Runoff Quality Objectives (Permitted and/or Previously Occupied Sites)

(a) Upon Discovery of Runoff Quality Violation - A notice of violation and compliance order shall be issued to the property owner giving a minimum of 14 calendar days up to a maximum of 60 calendar days, at the discretion of the Program Manager, to submit a remedial Runoff Management Plan describing the measures proposed to bring the site into compliance with runoff quality objectives. Conformance with a previously approved Runoff Management Plan shall not relieve a site from the

requirement to meet runoff quality objectives. Submittal of the remedial plan shall require payment of a permit review fee.

(b) Resubmittal of Remedial Runoff Management Plans - The remedial plan may be rejected or contingently approved with additions, deletions, and/or revisions mandated by the Program staff. The property owner shall have 14 calendar days to revise and resubmit a rejected or contingently approved remedial plan. Failure to resubmit an acceptable plan within this time limit shall constitute a violation of the compliance order.

(c) Upon Approval of the Remedial Runoff Manamment Plan - Concurrently with the approval of a remedial Rdnoff Management Plan, a compliance order shall be issued to the property owner giving a maximum of 120 calendar days to install the improvements required to bring the site into compliance with runoff quality objectives. If the Program Manager determines that the site poses an imminent threat to the water environment, the time allowed in the compliance order to install the runoff management measures will be reduced, but said time limit shall not be less than 14 calendar days.

Note: Failure to Meet Compliance Order Dates - Issuance of civil penalty against the property owner of $100.00 per day for each day compliance directives are not met. Should the compliance date be exceeded by more than 60 calendar days, the Program Manager may increase the civil penalty to $1,000.00 per day for each day compliance directives are not met. After 120 calendar days, the Program Manager may increase the civil penalty to $5,000.00 per day for each day compliance directives are not met.

5. Failure to Properly Operate and/or Maintain a Storm Water Retention/detention Basin Constructed as Part of an Accepted Runoff Management Plan

(a) Notice of Violation and Compliance Order - A notice of violation and compliance order shall be issued to the property owner giving a maximum of 30 days to restore a retention/detention basin to an acceptable level of maintenance and/or effective operation.

(b) Failure to Meet Compliance Order Date - Issuance of a civil penalty against the property owner of $1,000.00 per occurrence for each day during which storm water is discharged from the retention/detention basin between the expiration of the restoration period allowed by the compliance order and the date of completion of the restoration of the retention/detention basin as determined by the Program Manager.

6. Illicit Discharges (Non-residential, Non-accidental)

(a) First Offense - Notice of violation issued to responsible party for non-storm water discharge. A copy of the notice of violation will be sent to the Tennessee Department of Environment and Conservation (TDEC) for separate civil and/or criminal enforcement action.

(b) Second Offense - Issuance of notice of violation and civil penalty against responsible party of $1,000.00. A copy of the notice of violation will be sent to the TDEC for separate civil and/or criminal enforcement action. The amount of the civil penalty assessed by the Program will be reduced by the amount of any penalty imposed by TDEC up to the full amount of the Program's civil penalty.

(c) Each Additional Offense - Issuance of notice of violation and civil penalty against responsible party of $2,500.00. A copy of the notice of violation will be sent to TDEC for separate civil and/or criminal enforcement action. The amount of the civil penalty assessed by the Program will be reduced by the amount of any penalty imposed by TDEC up to the full amount of the Program's civil penalty.

(d) Additional Damages - Additional damages consisting of Program expenses to clean up illicit discharge will be passed on to violator starting with the first offense. Additional damages may include other items such as the costs avoided by not properly using the sanitary sewer system or other disposal method.

7. Illicit Discharges (Non-residential, Accidental)

(a) Accidental Illicit Discharges - An accidental illicit discharge, properly reported as such to the Program not later than 4:00 p.m. of the business day immediately following the incident, will not subject to enforcement as an illicit discharge. However, the responsible party may be held liable for clean-up costs and other damages to the Program. Failure to report an accidental discharge as described above shall subject such discharge to the enforcement actions described hereinbefore for non-accidental illicit discharges. The Program staff will notify TDEC of all reported accidental discharges.

8. Illicit Discharges (Residential Other than Wastewater Discharge)

(a) Each Offense - Enforcement action based on individual action. Examples: Deliberate dumping of pesticide, used motor oil, or other hazardous or dangerous chemical into storm drainage system would result in issuance of civil penalty including damages. The amount of the assessed civil penalty shall be not less than $50.00 or more than $500.00 as determined by the Program Manager. The Program staff will notify TDEC of all illicit discharges.

TITLE 19

ELECTRICITY AND GAS

CHAPTER
1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY[1]

SECTION
19-101. To be furnished by the Electric Power Board of Chattanooga.

19-101. To be furnished by the Electric Power Board of Chattanooga. Electricity shall be furnished for the municipality and its inhabitants by the Electric Power Board of Chattanooga. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.[2]

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[1]Municipal code reference
Electrical code: title 12.

[2]The agreements are of record in the office of the city recorder.

CHAPTER 2

GAS[1]

SECTION

19-201. To be furnished by the Chattanooga Gas Company.

19-201. To be furnished by the Chattanooga Gas Company. Gas service shall be furnished for the municipality and its inhabitants by the Chattanooga Gas Company. The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.[2]

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[1]Municipal code reference
Gas code: title 12.

[2]The agreements are of record in the office of the city recorder.

TITLE 20

MISCELLANEOUS

CHAPTER

1. AIR POLLUTION REGULATIONS.
2. RED BANK CEMETERY.
3. TELEPHONE FRANCHISE.
4. COUNCIL FOR CIVIL DEFENSE.
5. CIVIL EMERGENCY POWERS OF CITY MANAGER.
6. IMPOUNDED OR UNCLAIMED PERSONAL PROPERTY--DISPOSITION.
7. EMERGENCY AMBULANCE SERVICE.
8. POWER TO ISSUE CITATIONS.
9. PERSONALLY IDENTIFYING EMPLOYEE INFORMATION.
10. CITY MANAGER; MISCELLANEOUS POWERS AND RESTRICTIONS.
11. ADMINISTRATIVE HEARING OFFICER.

CHAPTER 1

AIR POLLUTION REGULATIONS

SECTION

20-101. Air pollution to be governed by the air pollution control ordinance(s).

20-101. Air pollution to be governed by the air pollution control ordinance(s). Air pollution within the City of Red Bank shall be governed by The Air Pollution Control ordinance(s) incorporated herein by reference.

Air pollution and air quality within the City of Red Bank shall be governed by the various Red Bank ordinances adopted by the City of Red Bank in relation thereto including ordinance no. 551, any amendments, reenactment or recodification thereof including but not limited to Ordinance Nos. 95-700, 95-701, 95-702, 96-710, 99-780, 00-812, 00-813, and 04-898.

All referenced ordinances, and amendment thereto, are of record in the office of the city recorder and shall not be physically contained within this codification, but are, rather, incorporated by reference. (as replaced by Ord. #99-780, March 1999; and amended by Ord. #00-812, June 2000; Ord. #00-813, June 2000; and Ord. #04-898, Dec. 2004)

CHAPTER 2

RED BANK CEMETERY

SECTION

20-201. Cemetery commission to manage.
20-202. Organization and procedure of the commission.
20-203. Burial fees.
20-204. Grave markers.
20-205. Maintenance of cemetery.

20-201. Cemetery commission to manage. The management and operation of the Red Bank Cemetery, which has heretofore been conveyed to the city by certain trustees, shall be under the control of a cemetery commission composed of three (3) members nominated by the mayor and confirmed by the commissioners of the city. (1975 Code, § 12-301)

20-202. Organization and procedure of the commission. The cemetery commission shall select one of its members as chairman and another as secretary. It shall adopt its own rules and regulations for its procedure. The secretary shall maintain the minutes of the commission's meetings and a copy of the minutes shall be delivered to and maintained by the city recorder. (1975 Code, § 12-302)

20-203. Burial fees. The cemetery commission shall be required to collect the sum of $100.00 from the next of kin, or from some person, before any grave shall be opened in the cemetery, provided however, that the cemetery commission may waive this fee in hardship cases. (1975 Code, § 12-303)

20-204. Grave markers. The cemetery commission shall also require of each person requesting the right of burial a deposit of $15.00 to cover the cost of a marker. This amount will be refunded to the person paying same upon the erection of a marker at the grave within sixty (60) days following burial, or upon furnishing satisfactory proof to the cemetery commission that such marker is on order. In the event a marker is not erected within that period of time or satisfactory proof as hereinabove set forth furnished, the deposit shall be forfeited and the cemetery commission shall forthwith obtain and place a marker at the grave. (1975 Code, § 12-304)

20-205. Maintenance of cemetery. The cemetery commission shall keep the city manager advised as to the maintenance needs of the cemetery, and the city manager shall, within the means available to him, and within the budgetary allotment for the maintenance of the cemetery, perform the work requested. The scheduling of the maintenance work upon the cemetery shall be

within the discretion of the city manager, provided, however, that the cemetery commission may, upon any special occasion give the city manager notice two weeks in advance or such occasion of any maintenance needs of the cemetery grounds, excluding monuments. The maintenance needs thus specified shall be corrected within the said two weeks either with city forces, or by special labor hired for this purpose. (1975 Code, § 12-305)

CHAPTER 3

TELEPHONE FRANCHISE

SECTION

20-301. Furnished under franchise.

20-301. Furnished under franchise. Telephone service shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.[1] The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

[1]The agreements are of record in the office of the city recorder.

CHAPTER 4

COUNCIL FOR CIVIL DEFENSE

SECTION

20-401. Creation, membership and compensation.
20-402. Appointment of chairman and director.
20-403. To act as an advisory body.
20-404. Committees and deputies.
20-405. General powers and duties of the director.
20-406. Miscellaneous duties enumerated.
20-407. Agreements for mutual aid and assistance.
20-408. Use of regular employees of the city.
20-409. Director to act for city.
20-410. Director to cooperate with other agencies.
20-411. Workers to take oath.
20-412. Compensation of workers.

20-401. Creation, membership and compensation. Pursuant to and in accordance with the provisions of Pub. Acts 1951, ch. 81, there is hereby created and established within the department of public safety a council for civil defense. The council shall consist of five (5) members, all of whom shall be at least twenty-one (21) years of age, citizens of the United States and residents of the City of Red Bank, and all of whom shall be appointed by the mayor of the city and serve during his pleasure, but without compensation. (1975 Code, § 1-801)

20-402. Appointment of chairman and director. The mayor shall appoint one of the members of the council for civil defense to serve as chairman of the council and also director of civil defense as contemplated by Pub. Acts 1951, ch. 81. (1975 Code, § 1-802)

20-403. To act as an advisory body. Acting as a body, the council for civil defense shall act entirely as an advisory body of the director for civil defense and to the city government and may express its advice or opinions informally or by formal resolutions. (1975 Code, § 1-803)

20-404. Committees and deputies. The director of civil defense shall have the power to appoint committees and deputies and delegate to them powers conferred upon him by this chapter. They shall assist him in the planning and administration of civil defense measures under this chapter. (1975 Code, § 1-804)

20-405. General powers and duties of the director. The director for civil defense shall have the power and it shall be his duty to enforce all lawful directives and orders of the civil defense agency of the State of Tennessee and of the government of the United States; to discharge such duties and do such things as are required of him by the board of commissioners of the City of Red Bank or the city manager of the city; to initiate and carry on studies and investigations personally or through deputies and committees necessary to determine the present resources of the city for civil defense and to determine what measures should be taken for the protection of persons and property within the city from the effects of possible enemy action, and for the rescue and care of such persons as may be injured thereby in person or in property and for the rehabilitation and protection of the city from the effects of such enemy action; to make recommendations to the board of commissioners of the City of Red Bank, to the civil defense agency of the state and to the federal civil defense authorities respecting measures and courses of action deemed by him to be necessary or desirable to effectuate the successful carrying out of his duties, and the purposes of this chapter. (1975 Code, § 1-805)

20-406. Miscellaneous duties enumerated. Until countermanded by lawful authority, it shall be the duty of the director for civil defense within the resources available:

(1) To recruit, train, organize and arm a voluntary police force to supplement the regular police force of this city in the event of an emergency. Such voluntary force shall not be used for ordinary police duty, except by consent of the mayor, and then only to guard against reasonably feared or threatened enemy action. The force shall be under the direct control of the director for civil defense, subject to the mayor's pleasure, but may at the pleasure of the mayor, be placed under the control of the director of public safety of the city.

(2) To recruit, train and organize a voluntary firemen's force to supplement the regular fire-fighting forces of this city. Such volunteer force shall not be used for ordinary fire protection duty, but may, with the consent of the mayor, be called upon to serve during an unexpected emergency. The force shall be under the direct control of the director for civil defense, but may, at the pleasure of the mayor, be placed under the control of the director of safety of the City of Red Bank.

(3) To provide a warning system for the city, designed to give prompt warning to the citizens of impending enemy attack, and to provide a general headquarters and control station to house the necessary staff and records of the organization.

(4) To institute and carry on a program to provide, as far as possible, reasonable shelters for protection of the population in event of enemy attack, and particularly, to institute a program of education among the industrial plants to provide reasonable shelter for their employees, and to carry on an

educational program among them relating to safety measures in event of an emergency.

(5) To take prompt measures in conjunction with the board of education for the protection and safety of the school children and personnel of the city schools and to assist the school authorities in an educational program for school protection.

(6) To institute a survey of the city for the purpose of locating and establishing existing shelters from enemy attack, and to mark such shelters and do such things as may be necessary to make such shelters available for use in an emergency.

(7) To organize and train a rescue force for rescuing persons from debris and like dangerous situations, and for clearing streets and roads, to facilitate the transportation of persons and materials.

(8) To organize and correlate the medical and hospital personnel and facilities of the city, and to train persons in first aid and nursing.

(9) To take measures in conjunction with the city and county health authorities to guard against the pollution of the city's water supply and against bacteriological and radiological attack.

(10) To cooperate with the safety department in guarding against sabotage in industries and against public works and facilities.

(11) To organize the available transportation facilities so as to make them as usable as possible in the event of an emergency.

(12) To organize the several communications systems of the city so as to preserve, as far as possible, adequate means of communication in the event of a disaster, and to this end, to establish a personal messenger system which can be used in event of disruption of other means.

(13) To procure necessary radiological instruments, medical supplies, arms and other materials which may be needed in the event of an atomic attack or other enemy attack.

(14) To cause a survey to be made of the city and its environs, and list the available housing facilities for use in event of disaster to the city or its neighbors.

(15) To accept on behalf of the city, with the approval of the mayor, equipment, material, facilities and funds donated from any source, and to use the same in furtherance of the purposes of this chapter.

(16) With the approval of the city manager, to contract for the services, materials and property necessary properly to carry out the purposes of this chapter but all commitments and expenditures shall, except in the event of an actual emergency declared by the governor of this state, or the mayor of this city, be limited to funds on hand or appropriated from the treasury.

(17) To organize and train air wardens to cooperate with the federal and state armed forces, if the necessity shall arise.

(18) To organize and train for the city a force of wardens whose duties it shall be to carry to the inhabitants of their districts instructions concerning

protective measures, proper methods to pursue to prevent and check fires, information respecting available shelters, and generally to act as leaders in their districts in the event of disaster until superseded by order or the arrival of higher authority.

(19) To coordinate the several services and facilities under his control with a view to efficiency and economy in operation. (1975 Code, § 1-806)

20-407. Agreements for mutual aid and assistance. The director for civil defense shall have the power to negotiate and enter into, subject to the ratification of the board of commissioners of the city, agreements with other political subdivisions of the state to provide for mutual aid and assistance in the event of an emergency, and to make like agreements with neighboring communities of other states with the approval of the board of commissioners of the city and the governor of the state. (1975 Code, § 1-807)

20-408. Use of regular employees of the city. The mayor shall have the power to place under the control of the director of civil defense, the regular employees of the city when and to the extent, in his sound judgment, the public interest requires. Such employees when transferred and whether serving within or without the city, shall have the powers, duties, rights, privileges and immunities and shall receive the compensation incidentals to their regular employment. (1975 Code, § 1-808)

20-409. Director to act for city. The director for civil defense shall have the power to act for the city, and to do all things necessary to carry out the orders and directions of the governor of the state, respecting the exercise of the powers placed in the hands of the governor under Pub. Acts 1951, ch. 81, and particularly under §§ 20-407, 20-408, 20-409, 20-410, and 20-411 hereof, and amendments thereto. (1975 Code, § 1-809)

20-410. Director to cooperate with other agencies. The director for civil defense shall, to the extent of the resources at his command, cooperate with and lend all assistance to and correlate his activities with the civil defense authorities of the state and of the federal government, and the civil defense programs and actions of the state and of the United States. (1975 Code, § 1-810)

20-411. Workers to take oath. No person, whether compensated for his services or not, shall enter into service or do anything under this chapter without complying with the requirements of Pub. Acts 1951, ch. 81, § 12. (1975 Code, § 1-811)

20-412. Compensation of workers. Unless specifically provided for (except regular employees transferred under § 20-408 above), no person shall receive any compensation for service as under this chapter, but the director of

civil defense shall have the power to reimburse any person serving under him for actual expenses properly incurred in carrying out the duties required of him by the director for civil defense. (1975 Code, § 1-812)

CHAPTER 5

CIVIL EMERGENCY POWERS OF CITY MANAGER

SECTION

20-501. Power to proclaim an emergency.
20-502. Powers of manager during such period.
20-503. Effect of proclamation.
20-504. Violations.

20-501. Power to proclaim an emergency. In the event of an emergency in this city, arising out of, brought about by, or resulting in, civil commotion, civil disturbances, riots, or other similar actions, in this city or in areas adjacent thereto, and in such close proximity as to render it likely that such disturbances or activities may spread to this city, the city manager shall have the power, under this chapter, to proclaim a state of emergency, and to exercise the powers invested in him hereby. (1975 Code, § 1-1001)

20-502. Powers of manager during such period. Upon the proclaiming of such emergency, the city manager may:

(1) Direct that all businesses engaged in the sale of alcoholic beverages shall cease the sale of such beverages during such hours as he may direct in such proclamation, or until the state of the emergency ceases to exist, in his discretion.

(2) Direct that all businesses engaged in the sale of gasoline, fuel oil, or other materials which may be used for explosive or incendiary purposes be closed during such hours as he may direct by the proclamation, or until the state of emergency ceases to exist, in his discretion.

(3) Direct that all business, commercial, and industrial establishments in the city be closed for such hours as may be specified in the proclamation, or pending the termination of the emergency, at his discretion.

(4) Impose a curfew prohibiting all persons from being abroad upon the streets and public ways of the city, except upon emergency matters, during certain hours established by the proclamation, or until the termination of the emergency, in his discretion.

(5) Direct that assemblages of more than four (4) persons be banned during such hours as may be established by the proclamation, or until the termination of the emergency, in his discretion. (1975 Code, § 1-1002)

20-503. Effect of proclamation. This proclamation, upon its issuance by the city manager, shall invoke the provisions of this chapter and make them applicable to the extent set forth in the proclamation. (1975 Code, § 1-1003)

20-504. Violations. Any violation of the provisions of a proclamation issued pursuant hereto shall be punishable under the general penalty clause for this code of ordinances. (1975 Code, § 1-1004)

CHAPTER 6

IMPOUNDED OR UNCLAIMED PERSONAL PROPERTY -- DISPOSITION

SECTION

20-601. Property covered by chapter.
20-602. Sale at auction.
20-603. Disposition of sale proceeds generally.
20-604. Owner's rights to proceeds of sale.
20-605. Unsalable property.

20-601. Property covered by chapter. All personal property impounded by the city under the provisions of any ordinance or law, and all unclaimed personal property coming into the possession of the police department, the city court, or any other department of the city, shall, if it remains unclaimed for a period of sixty (60) days thereafter, be and become the property of the City of Red Bank and shall be disposed of by the city manager in such manner and on such terms as he deems necessary and reasonable. Such property shall be inventoried and labeled, and a record thereof maintained by the city manager. The sixty (60) day period herein described shall commence at the time that the property comes into the possession of the city. The city manager shall make every effort to give actual notice to the owner of said property before disposing of the same. (1975 Code, § 1-1101)

20-602. Sale at auction. When deemed appropriate by the city manager, he shall hold a public sale of all unclaimed personal property delivered to him. Notice of sale, giving the time and place, shall be by public notice posted in at least three (3) public places in the county, one of which shall be at the city hall, and one of which shall be at the location of the property to be sold. Said notices shall be posted at least ten (10) days prior to the time of said sale, and the sale shall be made at public auction to the highest bidder for cash, and shall be conducted by the city manager, or some person designated by him. (1975 Code, § 1-1102)

20-603. Disposition of sale proceeds generally. Monies received from the sale of unclaimed personal property, as provided herein, shall be paid into the city treasury to be used for general municipal purposes, subject to the provisions hereof. (1975 Code, § 1-1103)

20-604. Owner's rights to proceeds of sale. In the event the owner of any article of personal property sold shall, within a period of sixty (60) days after the sale, present satisfactory proof to the city that he was the owner of any article sold, he shall be entitled to the proceeds of the sale thereof, less all costs,

expenses, and charges incurred or accrued in connection with the impoundment and sale of said property. (1975 Code, § 1-1104)

20-605. Unsalable property. Should said personal property coming into the city's possession by impoundment, or otherwise, be unsalable for any reason, the city manager is authorized to dispose of the same in such manner as he may deem best. (1975 Code, § 1-1105)

CHAPTER 7

EMERGENCY AMBULANCE SERVICE[1]

SECTION

20-701. Title.
20-702. Creation and purpose.
20-703. Officers and personnel.
20-704. Applicability of provisions of title 7, chapter 3.
20-705. Charges for ambulance service; method of determination; availability.
20-706. Restricted to emergency service--determination.

20-701. Title. This chapter shall be known as The Red Bank Emergency Ambulance Ordinance. (1975 Code, § 7-401)

20-702. Creation and purpose. There is hereby created, within the Red Bank Volunteer Fire Department, a division to be known as The Red Bank Emergency Ambulance Service, the object of which shall be the furnishing, to persons in need thereof, of emergency ambulance service. (1975 Code, § 7-402)

20-703. Officers and personnel. The officers and all other personnel of the ambulance service shall, in all respects, be members of the Red Bank fire department, and shall be subject to the same rules, regulations, discipline, and chain of command, as all other officers and personnel of said fire department. (1975 Code, § 7-403)

20-704. Applicability of provisions of title 7, chapter 3. All of the provisions of title 7, ch. 3 dealing with the Red Bank Fire Department, shall be equally applicable to the personnel and operations of the ambulance service, except where such applicability would be inappropriate. (1975 Code, § 7-404)

20-705. Charges for ambulance service; method of determination; availability. The charge for ambulance service for Basic Life Service Runs shall be $125.00 per transport per patient, plus $2.00 per mile and a $20.00 oxygen charge when such is used. Provided, however, that Advanced Life Service Runs, when a paramedic is on the run for administration or possible administration of IV therapy, defibrillation, or use of disposable supplies and other extraordinary services of a like kind which may necessarily be provided shall be charged at the rate of $200.00 per transport per patient, plus $2.00 per mile and a $20.00 oxygen charge when such is used. For the purpose of this

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[1]Municipal code reference
Fire department: title 7, chapter 3.

section, a secondary transport to a second hospital shall be deemed a separate trip and shall accordingly be subject to a second, separate charge therefor. (1975 Code, § 7-405)

20-706. Restricted to emergency service--determination. Because of the fact that this city has only one ambulance, and the use of said ambulance as a transportation service in non-emergency situations could result in the ambulance being unavailable for service in a true life-threatening emergency, the utilization of this ambulance shall be restricted to emergencies. The authority to determine whether or not a particular set of circumstances constitutes such an emergency shall rest with a senior officer on the ambulance crew at the time it is dispatched. (1975 Code, § 7-406)

CHAPTER 8

POWER TO ISSUE CITATIONS

SECTION

20-801. Power to issue citations.

20-801. Power to issue citations. Pursuant to the provisions of Tennessee Code Annotated, §§ 7-63-201--7-63-204, the codes enforcement officer and/or, as is applicable, the animal control officer shall have the power and right, in the performance, and within the parameters of the respective duties assigned to them by the city manager and/or as provided by charter, ordinance or statute, to issue ordinances summonses as citations in lieu of arrest to the city court for violations of general law, statute, charter or ordinance as each may be responsible for enforcement. (as added by Ord. #97-752, § 1, Oct. 1997)

CHAPTER 9

PERSONALLY IDENTIFYING EMPLOYEE INFORMATION

SECTION

20-901. Policy.
20-902. Personally identifying information.
20-903. Request to release information in writing.
20-904. Procedures for requesting information.

20-901. Policy. As a matter of policy, the City of Red Bank will not disclose personally identifying information about specific employees or applicants, if the employee invokes his/her right to privacy, personal security and bodily integrity. If the employee does not invoke his/her right to privacy, personal security and bodily integrity, the information will be released to the requestor. (as added by Ord. #99-787, July 1999)

20-902. Personally identifying information. Personally identifying information includes addresses, phone numbers, drivers' licenses, social security numbers, and any other information reasonably deemed to fit into the category of personnel identifying information. It also includes, but is not limited to the names, addresses, phone numbers, driver's licenses, and social security numbers of family members, if such information is in the city's personnel files. (as added by Ord. #99-787, July 1999)

20-903. Request to release information in writing. If permitted by subsequent statutory enactment by the State of Tennessee by court ruling, the city will not release any personally identifying information with respect to its employees or fire or police personnel unless requested to do so in writing by the affected Red Bank employee. (as added by Ord. #99-787, July 1999)

20-904. Procedures for requesting information. Procedures for requesting information on individual employees.

(1) All requests to review a file or information from a file must be handled by the personnel administrator. In his/her absence, requests will be referred to the city manager.

(2) The person(s) requesting the information must complete a form (copy attached)[1] specifying what information is being requested and the reason for the request. The request shall be as specific as possible.

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[1]This form is on record in the office of the recorder.

(3) The personnel administrator will offer the requestor a work history on the employee and may also provide copies of individual items from the file with the personally identifying information deleted or blacked out.

(4) Requests for unedited copies of an employee's file or any personally identifying information will result in notification to the employee whose information has been requested. The personnel administrator will notify the employee within 48 hours that the request has been made to disclose personally identifying information. The employee then will have 48 hours after actual notice to object to the information to be disclosed.

(5) If the employee makes no objection to full disclosure, the personnel administrator will allow the unedited file or personally identifying information to be disclosed.

(6) If the employee objects to the disclosure, or if permitted by statute or case law, the information will not be disclosed. If the requestor objects, he will be referred to the city attorney for appropriate resolution.

(7) The personnel administrator or city manager are the only officials authorized to verify employment upon request. These officials may not release or verify an employee's social security number, address, driver's license, or other personally identifying information, unless compelled to do so by a final order of a court of competent jurisdiction.

(8) Any requests for this information must be made in writing. The administrative staff is authorized to fax the appropriate form to the requestor; however, all aspects of request(s) for police officers' personally identifying information must be handled by the personnel administrator or city manager, in person and no such information may be mailed. The requestor must personally come to city hall to view the documents or to obtain copies. The city manager and/or staff shall charge an appropriate administrative fee, to be set by the city manager, to defray the cost of the review and/or copying and the compliance with these procedures. (as added by Ord. #99-787, July 1999)

CHAPTER 10

CITY MANAGER; MISCELLANEOUS POWERS AND RESTRICTIONS

SECTION

20-1001. Authority to enter, sign, and execute contracts.

20-1001. Authority to enter, sign, and execute contracts. (1) The city manager is hereby authorized to enter, sign and execute building contracts for and on behalf of the city, without specific board approval, in routine matters and matters having insubstantial long term consequences. As used in this chapter "routine matters and matters have insubstantial long term consequences" means a contract or series of contracts of a like nature with respect to essentially the same subject matter for which

(a) The total expenditures in any fiscal year shall be less than $10,000.00,

(b) In which the total expenditure over the life of the contract shall be less than $20,000, and

(c) The term of which contract shall not extend or span more than any two fiscal years.

(2) That the city manager is hereby authorized to enter, sign and execute any binding contract for and on behalf of the city, with the specific approval of the city commission, when specifically authorized to do so by the city commission, acting by ordinance and/or resolution. (as added by Ord. #00-831, Oct. 2000, and amended by Ord. #08-944, Dec. 2008)

CHAPTER 11

ADMINISTRATIVE HEARING OFFICER[1]

SECTION

20-1101. Municipal administrative hearing officer.
20-1102. Communication by administrative hearing officer.
20-1103. Appearance by parties and/or counsel.
20-1104. Pre-hearing conference and orders.
20-1105. Appointment of administrative hearing officer/administrative law judge.
20-1106. Training and continuing education.
20-1107. Citations for violations - written notice.
20-1108. Review of citation - levy of fines.
20-1109. Party in default.
20-1110. Petitions for intervention.
20-1111. Regulating course of proceedings - hearing open to public.
20-1112. Evidence and affidavits.
20-1113. Rendering of final order.
20-1114. Final order effective date.
20-1115. Collection of fines, judgments and debts.
20-1116. Judicial review of final order.
20-1117. Appeal to court of appeals.

20-1101. Municipal administrative hearing officer. (1) In accordance with title 6, chapter 54, section 1001, et seq., of the Tennessee Code Annotated, there is hereby created the Red Bank Municipal Office of Administrative Hearing Officer to hear violations of any of the provisions codified in the Red Bank Municipal Code relating to building and property maintenance including:

(a) Building codes now or hereafter adopted by the City of Red Bank;

(b) All residential codes now or hereafter adopted by the City of Red Bank;

(c) All plumbing codes now or hereafter adopted by the City of Red Bank;

(d) All electrical codes now or hereafter adopted by the City of Red Bank;

(e) All gas codes now or hereafter adopted by the City of Red Bank;

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[1]Municipal code reference
Building and utility codes: title 12

(f) All mechanical codes now or hereafter adopted by the City of Red Bank;

(g) All energy codes now or hereafter adopted by the City of Red Bank;

(h) All property maintenance codes now or hereafter adopted by the City of Red Bank;

(i) All codes or regulations governing mobile food service vehicles now or hereafter adopted by the City of Red Bank; and

(j) All municipal zoning ordinances and codes;

(k) Ordinances regulating any subject matter commonly found in the codes mentioned in subsections (1)(a)-(k) hereof.

The administrative hearing officer is not authorized to hear violation of codes adopted by the state fire marshal pursuant to Tennessee Code Annotated, § 68-120-101(a) which are more stringent than and which have stricter standards and requirements than the then applicable city code requirement.

The utilization of the administrative hearing officer shall be at the discretion of the city manager and/or the city manager's designee, the chief building official of the City of Red Bank, and shall be an alternative to any other procedures for enforcement included in the Red Bank Municipal Code.

(2) There is hereby created one (1) administrative hearing officer position to be appointed by the city commission pursuant to § 20-1105 below.

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

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

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in title 6, chapter 54, section 1001, et seq., of the Tennessee Code Annotated. (as added by Ord. #15-1042, Oct. 2015, and amended by Ord. #18-1125, June 2018)

20-1102. Communication by administrative hearing officer and parties. (1) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative hearing officer presiding over a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.

(2) Notwithstanding subsection (1), an administrative hearing officer may communicate with municipal employees or officials regarding a matter pending before the administrative body or may receive aid from staff assistants, members of the staff of the city attorney or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative hearing officer would be prohibited from receiving, and do not furnish, augment, diminish or modify the evidence in the record.

(3) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative hearing officer without notice and opportunity for all parties to participate in the communication.

(4) If, before serving as an administrative hearing officer in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5).

(5) An administrative hearing officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) business days after notice of the communication. (as added by Ord. #15-1042, Oct. 2015)

20-1103. Appearance by parties and/or counsel. (1) Any party may participate in the hearing in person or, if the party is a corporation or other artificial person, by a duly authorized representative.

(2) Whether or not participating in person, any party may be advised and represented at the party's own expense by counsel or, unless prohibited by any provision of law, other representative. (as added by Ord. #15-1042, Oct. 2015)

20-1104. Pre-hearing conference and orders. (1) (a) In any action set for hearing, the administrative hearing officer, upon the administrative hearing officer's own motion, or upon motion of one (1) of the parties or such party's qualified representatives, may direct the parties or the attorneys for the parties, or both, to appear before the administrative hearing officer for a conference to consider:

(i) The simplification of issues;

(ii) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;

(iii) The limitation of the number of witnesses; and

(iv) Such other matters as may aid in the disposition of the action.

(b) The administrative hearing officer shall make an order that recites the action taken at the conference, and the agreements made by

the parties as to any of the matters considered, and that limits the issues for hearing to those not disposed of by admissions or agreements of the parties. Such order when entered controls the subsequent course of the action, unless modified at the hearing to prevent manifest injustice.

(2) Upon reasonable notice to all parties, the administrative hearing officer may convene a hearing or convert a pre-hearing conference to a hearing, to be conducted by the administrative hearing officer sitting alone, to consider argument or evidence, or both, on any question of law.

(3) In the discretion of the administrative hearing officer, all or part of the pre-hearing conference may be conducted by telephone, television or other electronic means, if each participant in the conference has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceeding while it is taking place.

(4) If a pre-hearing conference is not held, the administrative hearing officer may issue a pre-hearing order, based on the pleadings, to regulate the conduct of the proceedings. (as added by Ord. #15-1042, Oct. 2015)

20-1105. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall be appointed by the city commission for a four (4) year term and serve at the pleasure of the city commission. Such administrative hearing officer may be reappointed.

(2) An administrative hearing officer shall be one (1) of the following:

(a) Licensed building inspector;

(b) Licensed plumbing inspector;

(c) Licensed electrical inspector;

(d) Licensed attorney;

(e) Licensed architect;

(f) Licensed engineer; or

(3) The city may also contract with the administrative procedures division, office of the Tennessee Secretary of State to employ an administrative law judge on a temporary basis to serve as an administrative hearing officer. Such administrative law judge shall not be subject to the requirements of subsections 6-54-1007(a) and (b). (as added by Ord. #15-1042, Oct. 2015)

20-1106. Training and continuing education. (1) Each person appointed to serve as an administrative hearing officer shall, within the six (6) month period immediately following the date of such appointment, participate in a program of training conducted by the University of Tennessee's Municipal Technical Advisory Service, referred to in this part as MTAS. MTAS shall issue a certificate of participation to each person whose attendance is satisfactory. The curricula for the initial training shall be developed by MTAS with input from the administrative procedures division, office of the Tennessee Secretary of

State. MTAS shall offer this program of training no less than twice per calendar year.

(2) Each person actively serving as an administrative hearing officer shall complete six (6) hours of continuing education every calendar year. MTAS develop the continuing education curricula and offer that curricula for credit no less than twice per calendar year. The education required by this section shall be in addition to any other continuing education requirements required for other professional licenses held by the individuals licensed under this part. No continuing education hours from one (1) calendar year may be carried over to a subsequent calendar year.

(3) MTAS has the authority to set and enact appropriate fees for the requirements of this section. The city shall bear the cost of the fees for administrative hearing officer serving the city.

(4) Costs pursuant to this section shall be offset by fees enacted. (as added by Ord. #15-1042, Oct. 2015)

20-1107. Citations for violations-written notice. (1) Upon the issuance of a citation for violation of a municipal ordinance referenced in the city's administrative hearing ordinance, the issuing officer shall provide written notice of:

(a) A short and plain statement of the matters asserted. If the issuing officer is unable to state the matters in detail at the time the citation is served, the initial notice may be limited to a statement of the issues involved and the ordinance violations alleged. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) business days prior to the time set for the hearing;

(b) A short and plain description of the city's administrative hearing process including references to state and local statutory authority;

(c) Contact information for the city's administrative hearing office; and

(d) Time frame in which the hearing officer will review the citation and determine the fine and remedial period, if any.

(2) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be signed by the alleged violator at the time of issuance. If an alleged violator refuses to sign, the issuing officer shall note the refusal and attest to the alleged violator's receipt of the citation. An alleged violator's signature on a citation is not admission of guilt.

(3) Citations issued upon absentee property owners may be served via certified mail sent to the last known address of the recorded owner of the property.

(4) Citations issued for violations of ordinances referenced in the city's administrative hearing ordinance shall be transmitted to an administrative

hearing officer within two (2) business days of issuance. (as added by Ord. #15-1042, Oct. 2015)

20-1108. Review of citation - levy of fines. (1) Upon receipt of a citation issued pursuant to § 20-1107, an administrative hearing officer shall, within seven (7) business days of receipt, review the appropriateness of an alleged violation. Upon determining that a violation does exist, the hearing officer has the authority to levy a fine upon the alleged violator in accordance with this section. Any fine levied by a hearing officer must be reasonable based upon the totality of the circumstances.

(a) For violations occurring upon residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars ($500.00) per violation. For purposes of this part, "residential property" means a single family dwelling principally used as the property owner's primary residence and the real property upon which it sits.

(b) For violations occurring upon non-residential property a hearing officer has the authority to levy a fine upon the violator not to exceed five hundred dollars ($500.00) per violation per day. For purposes of this part, "non-residential property" means all real property, structures, buildings and dwellings that are not residential property.

(2) If a fine is levied pursuant to subsection (1), the hearing officer shall set a reasonable period of time to allow the alleged violator to remedy the violation alleged in the citation before the fine is imposed. The remedial period shall be no less than ten (10) nor greater than one hundred twenty (120) calendar days, except where failure to remedy the alleged violation in less than ten (10) calendar days would pose an imminent threat to the health, safety or welfare of persons or property in the adjacent area.

(3) Upon the levy of a fine pursuant to subsection (1), the hearing officer shall within seven (7) business days, provide via certified mail notice to the alleged violator of:

(a) The fine and remedial period established pursuant to subsections (1) and (2);

(b) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; and

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved.

(4) The date of the hearing shall be no less than thirty (30) calendar days following the issuance of the citation. To confirm the hearing, the alleged violator must make a written request for the hearing to the hearing officer within seven (7) business days of receipt of the notice required in subsection (3).

(5) If an alleged violator demonstrates to the issuing officer's satisfaction that the allegations contained in the citation have been remedied

to the issuing officer's satisfaction, the fine levied pursuant to subsection (1) shall not be imposed or if already imposed cease; and the hearing date, if the hearing has not yet occurred, shall be cancelled. (as added by Ord. #15-1042, Oct. 2015)

20-1109. Party in default. (1) If a party fails to attend or participate in a pre-hearing conference, hearing or other stage of a contested case, the administrative hearing officer may hold the party in default and either adjourn the proceedings or conduct them without the participation of that party, having due regard for the interest of justice and the orderly and prompt conduct of the proceedings.

(2) If the proceedings are conducted without the participation of the party in default, the administrative hearing officer shall include in the final order a written notice of default and a written statement of the grounds for the default. (as added by Ord. #15-1042, Oct. 2015)

20-1110. Petitions for intervention. (1) The administrative hearing officer shall grant one (1) or more petitions for intervention if:

(a) The petition is submitted in writing to the administrative hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) business days before the hearing;

(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities or other legal interest may be determined in the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(c) The administrative hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings shall not be impaired by allowing the intervention.

(2) If a petitioner qualifies for intervention, the administrative hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

(b) Limiting the intervenor's participation so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more intervenors to combine their participation in the proceedings.

(3) The administrative hearing officer, at least twenty-four (24) hours before the hearing, shall render an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The administrative hearing officer may modify the order at any time, stating the reasons for the modification. The administrative

hearing officer shall promptly give notice of an order granting, denying or modifying intervention to the petitioner for intervention and to all parties. (as added by Ord. #15-1042, Oct. 2015)

20-1111. Regulating course of proceedings - hearing open to public. (1) The administrative hearing officer shall regulate the course of the proceedings, in conformity with the pre-hearing order, if any.

(2) To the extent necessary for full disclosure of all relevant facts and issues, the administrative hearing officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct crossexamination, and submit rebuttal evidence, except as restricted by a limited grant of intervention or by the pre-hearing order.

(3) In the discretion of the administrative hearing officer and by agreement of the parties, all or part of the hearing may be conducted by telephone, television or other electronic means, if each participant in the hearing has an opportunity to participate in, to hear, and, if technically feasible, to see the entire proceedings while taking place.

(4) The hearing shall be open to public observation pursuant to title 8, chapter 44 of the Tennessee Code Annotated, unless otherwise provided by state or federal law. To the extent that a hearing is conducted by telephone, television or other electronic means, the availability of public observation shall be satisfied by giving members of the public an opportunity, at reasonable times, to hear the tape recording and to inspect any transcript produced, if any. (as added by Ord. #15-1042, Oct. 2015)

20-1112. Evidence and affidavits. (1) In administrative hearings:

(a) The administrative hearing officer shall admit and give probative effect to evidence admissible in a court, and when necessary to ascertain facts not reasonably susceptible to proof under the rules of court, evidence not admissible thereunder may be admitted if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. The administrative hearing officer shall give effect to the rules of privilege recognized by law and to statutes protecting the confidentiality of certain records, and shall exclude evidence which in his or her judgment is irrelevant, immaterial or unduly repetitious;

(b) At any time not less than ten (10) business days prior to a hearing or a continued hearing, any party shall deliver to the opposing party a copy of any affidavit such party proposes to introduce in evidence, together with a notice in the form provided in subsection (2). Unless the opposing party, within seven (7) business days after delivery, delivers to the proponent a request to cross-examine an affiant, the opposing party's right to crossexamination of such affiant is waived and the affidavit, if introduced in evidence, shall be given the same effect as if the affiant had testified orally. If an opportunity to cross-examine an affiant is not

afforded after a proper request is made as provided in this subdivision (b), the affidavit shall not be admitted into evidence. "Delivery," for purposes of this section, means actual receipt;

(c) The administrative hearing officer may admit affidavits not submitted in accordance with this section where necessary to prevent injustice;

(d) Documentary evidence otherwise admissible may be received in the form of copies or excerpts, or by incorporation by reference to material already on file with the municipality. Upon request, parties shall be given an opportunity to compare the copy with the original, if reasonably available; and

(e) (i) Official notice may be taken of:

(A) Any fact that could be judicially noticed in the courts of this state;

(B) The record of other proceedings before the agency; or

(C) Technical or scientific matters within the administrative hearing officer's specialized knowledge; and

(ii) Parties must be notified before or during the hearing, or before the issuance of any final order that is based in whole or in part on facts or material notice, of the specific facts or material noticed and the source thereof, including any staff memoranda and data, and be afforded an opportunity to contest and rebut the facts or material so noticed.

(2) The notice referred to in subdivision (b) shall contain the following information and be substantially in the following form:

The accompanying affidavit of _____ (here insert name of affiant) will be introduced as evidence at the hearing in _____ (here insert title of proceeding). _____ (here insert name of affiant) will not be called to testify orally and you will not be entitled to question such affiant unless you notify _____ (here insert name of the proponent or the proponent's attorney) at _____ (here insert address) that you wish to cross-examine such affiant. To be effective, your request must be mailed or delivered to _____ (here insert name of proponent or the proponent's attorney) on or before _____ (here insert a date seven (7) business days after the date of mailing or delivering the affidavit to the opposing party). (as added by Ord. #15-1042, Oct. 2015)

20-1113. <u>Rendering of final order</u>. (1) An administrative hearing officer shall render a final order in all cases brought before his or her body.

(2) A final order shall include conclusions of law, the policy reasons therefor, and findings of fact for all aspects of the order, including the remedy prescribed. Findings of fact, if set forth in language that is no more than mere repetition or paraphrase of the relevant provision of law, shall be accompanied

by a concise and explicit statement of the underlying facts of record to support the findings. The final order must also include a statement of the available procedures and time limits for seeking reconsideration or other administrative relief and the time limits for seeking judicial review of the final order.

(3) Findings of fact shall be based exclusively upon the evidence of record in the adjudicative proceeding and on matters officially noticed in that proceeding. The administrative hearing officer's experience, technical competence and specialized knowledge may be utilized in the evaluation of evidence.

(4) If an individual serving or designated to serve as an administrative hearing officer becomes unavailable, for any reason, before rendition of the final order, a qualified substitute shall be appointed. The substitute shall use any existing record and may conduct any further proceedings as is appropriate in the interest of justice.

(5) The administrative hearing officer may allow the parties a designated amount of time after conclusion of the hearing for the submission of proposed findings.

(6) A final order rendered pursuant to subsection (a) shall be rendered in writing within seven (7) business days after conclusion of the hearing or after submission of proposed findings unless such period is waived or extended with the written consent of all parties or for good cause shown.

(7) The administrative hearing officer shall cause copies of the final order under subsection (1) to be delivered to each party. (as added by Ord. #15-1042, Oct. 2015)

20-1114. Final order effective date. (1) All final orders shall state when the order is entered and effective.

(2) A party may not be required to comply with a final order unless the final order has been mailed to the last known address of the party or unless the party has actual knowledge of the final order. (as added by Ord. #15-1042, Oct. 2015)

20-1115. Collection of fines, judgments and debts. The city may collect a fine levied pursuant to this section by any legal means available to a municipality to collect any other fine, judgment or debt. (as added by Ord. #15-1042, Oct. 2015)

20-1116. Judicial review of final order. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review under this chapter, which shall be the only available method of judicial review.

(2) Proceedings for judicial review of a final order are instituted by filing a petition for review in the chancery court in the county where the municipality lies. Such petition must be filed within sixty (60) calendar days after the entry of the final order that is the subject of the review.

(3) The filing of the petition for review does not itself stay enforcement of the final order. The reviewing court may order a stay on appropriate terms, but if it is shown to the satisfaction of the reviewing court, in a hearing that shall be held within ten (10) business days of a request for hearing by either party, that any party or the public at large may suffer injury by reason of the granting of a stay, then no stay shall be granted until a good and sufficient bond, in an amount fixed and approved by the court, shall be given by the petitioner conditioned to indemnify the other persons who might be so injured and if no bond amount is sufficient, the stay shall be denied.

(4) Within forty-five (45) calendar days after service of the petition, or within further time allowed by the court, the administrative hearing officer shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all the parties of the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional cost. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the administrative proceeding, the court may order that the additional evidence be taken before the administrative hearing officer upon conditions determined by the court. The administrative hearing officer may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings or decisions with the reviewing court.

(6) The procedure ordinarily followed in the reviewing court will be followed in the review of contested cases decided by the administrative hearing officer, except as otherwise provided in this chapter. The administrative hearing officer that issued the decision to be reviewed is not required to file a responsive pleading.

(7) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the administrative hearing officer, not shown in the record, proof thereon may be taken in the court.

(8) The court may affirm the decision of the administrative hearing officer or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the administrative hearing officer;

(c) Made upon unlawful procedure;

(d) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or

(e) Unsupported by evidence that is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the administrative hearing officer as to the weight of the evidence on questions of fact.

(9) No administrative hearing decision pursuant to a hearing shall be reversed, remanded or modified by the reviewing court unless for errors that affect the merits of such decision.

(10) The reviewing court shall reduce its findings of fact and conclusions of law to writing and make them parts of the record. (as added by Ord. #15-1042, Oct. 2015)

20-1117. Appeal to court of appeals. (1) An aggrieved party may obtain a review of any final judgment of the chancery court under this chapter by appeal to the court of appeals of Tennessee.

(2) The record certified to the chancery court and the record in the chancery court shall constitute the record in an appeal. Evidence taken in court pursuant to title 24 shall become a part of the record.

(3) The procedure on appeal shall be governed by the Tennessee Rules of Appellate Procedure. (as added by Ord. #15-1042, Oct. 2015)

APPENDIX A

PERSONNEL POLICIES

CITY OF RED BANK

See Ord. #15-1036, Aug. 2015 of record in the recorder's office

(deleted by Ord. #98-768, April 1998,
and replaced by Ord. #15-1036, Aug. 2015)

APPENDIX B

1. **PURPOSE OF MAKING PERCOLATION TESTS**. Percolation tests are carried out over a two day period and are made to determine the ability of a particular soil to absorb liquids over prolonged periods extending into years. Date obtained from the tests enable the engineer to determine the absorption area required for a soil absorption system to serve a particular structure being erected on the land.

2. **AUTHORITY**. Section 53-2011, Tennessee Code Annotated, stipulates that:

   The owner of a proposed subdivision shall be required:

   (a) To submit plans including a map of the surrounding area and detailed plans of the area to be subdivided, showing proposed lot sizes, area to be used for sewage disposal, location of percolation test holes identified by numbers, location of water supply lines, water wells and other data needed to determine the suitability of the area for development using individual septic tanks and underground disposal of sewage.

   (b) To submit tabulated results of soil percolation tests made by a licensed engineer, a licensed architect, or a qualified surveyor, recognized by the local Health Officer as being proficient in the field of surveying in accordance with current methods approved by the Department.

   (c) To furnish such additional data as required by the Health Officer as a basis for determining suitability of individual lots.

3. **SUITABILITY OF THE SOIL**.

   (a) General. Explorations are necessary to determine subsurface formations in a given area. In some cases, an examination of road cuts, stream embankments, or building excavations will give useful information. Wells and well-driller's logs can also be used to obtain information on ground water and subsurface conditions. In some areas, subsoil strata vary widely in short distances, and borings must be made at the site of the proposed system. If the subsoil appears suitable, percolation tests shall be made at points and elevations selected as typical of the area in which the disposal field will be located.

(b) Ground Water and Impervious Strata. If information on ground water and subsurface conditions cannot be obtained as outlined in paragraph 4a, then soil borings shall be made. Unless the following conditions are satisfied, the site may be disapproved for a subsurface sewage and waste water disposal system.

(1) The maximum elevation of the ground water table shall be at least 4 feet below the surface.

(2) Rock formations or other impervious strata as determined by borings, shall be at a depth greater than 4 feet below the bottom of the absorption trench.

4. **PROCEDURES FOR MAKING SOIL PERCOLATION TESTS.**

(a) Number of test holes required:

(1) Subdivisions. One per acre, or if soil conditions indicate, a greater number shall be required to show clearly the absorptive ability of the soil throughout the tract. Each test hole shall be identified by a stake and assigned a key number which shall also be shown at the same location on a topographic map of the tract.

(2) Individual Lots. One percolation test shall be made and additional ones may be requested at the discretion of the Health Officer to determine soil conditions over the site.

(3) Business and Commercial Establishments. The number of test holes shall be established by the Health Officer.

(b) Preparation of Test Holes - Proceed as follows:

(1) Dig or bore holes with horizontal dimensions of from 4 to 12 inches and vertical sides to the depth of the proposed absorption trench.

(2) Roughen or scratch the bottom and sides of the holes to provide a natural surface. Remove all loose material from the holes. Place about 2 inches of coarse sand or gravel on the bottom of the holes to prevent scouring.

(c) Saturation and Swelling of the Soil.

(1) General. It is important to distinguish between saturation and swelling. Saturation means that the void spaces between soil particles are full of water. This can be accomplished in a short period of time. Swelling is caused by the intrusion of water into the individual soil particle. This is a slow process, especially in a clay-type soil, and is the reason for requiring a prolonged soaking period.

(2) Preliminary wetting of the Soil. Carefully fill each test hole with clear water to a minimum depth of 12 inches over the gravel and keep refilling as necessary, to insure that water remains in the hole for four hours. At the end of the four hour period, fill the hole with water to the 12 inch level.

(d) Percolation Tests. Except in sandy soils, tests shall be made 24 hours after water is first added to the holes. This is to insure that the soil is given ample opportunity to swell and approach the condition it will be in during the wettest season of the year. Proceed as follows:

(1) If no water remains in the hole after the overnight swelling period, add clear water to bring the depth of water in the hole to approximately six inches over the gravel. From a fixed reference point, measure the drop in water level at approximately 60-minute intervals for four hours, refilling six inches over the gravel as necessary. The drop which occurs during the final 60-minute period is used to calculate the percolation rate.

(2) If water remains in the test hole after the overnight swelling period, adjust the depth to approximately 6 inches over the gravel. From a fixed reference point, measure the drop in water level over a 60-minute period. This drop is used to calculate the percolation rate.

(3) If the first 6 inches of water seeps away in less than 30 minutes after the 24-hour swelling period, the time interval between measurements should be taken as 10 minutes, and the test run for 1 hour. The drop which occurs during the final 10 minutes is used to calculate the percolation rate.

5. **TABLES SHOWING ABSORPTION AREA REQUIREMENTS.**

(a) Private Residences Having Garbage Grinder and Automatic Sequence Washing Machine.

Percolation rate or time in minutes for water to fall 1 inch.	Required absorption area in square feet per bedroom.
1 or less	70
2	85
3	100
4	115
5	125
10	165
15	190
30	250
45	300
60	330
Over 60 minutes	Unsuitable for a soil absorption system

6. **ALL PERCOLATION TEST REPORTS SHALL BEAR THE FOLLOWING CERTIFICATION:**

I certify that the percolation tests reported hereon have been performed in accordance with the Standard Procedures for Making Soil Percolation Tests in Hamilton County.

APPENDIX C[1]

CITY OF RED BANK

PURCHASING POLICIES AND PROCEDURES

January 7, 1997

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[1]Ord. No. 96-722 added these provisions to the municipal code as Appendix B. However since an Appendix B already existed, these provisions were added here as Appendix C.

Ord. No. 96-722 in section 2 also states: "To the extent not prohibited by charter provisions or by applicable provisions of state law, the provisions of this purchasing policy may be, from time to time hereafter, amended by resolution of the Board of Commissioners of the City of Red Bank, Tennessee."

Resolutions are not normally considered when updating a municipal code. Therefore, the reader should check with the city recorder to ascertain whether the Purchasing Policies and Procedures contained herein is the most up-to-date.

PURCHASING POLICIES AND PROCEDURES MANUAL

CITY OF RED BANK

With the help of this manual, our city can learn how to create the most efficient purchasing operation possible. By clarifying the procedures, both the using department and the Purchasing Division will benefit from time saved obtaining materials, equipment and services.

The main function of the Purchasing Division is to aid all departments within the city by securing the best materials, supplies, equipment, and service at the lowest possible cost, while keeping high standards of quality. One purpose of this manual is to explain city buying policies and to serve as a general framework and guide for purchasing decisions. To have a good purchasing program, all city employees directly or indirectly associated with buying must work as a team to promote the city's best interests in getting the maximum value for each dollar spent.

As revisions or additions to this manual become necessary, new pages will be sent to all recipients, who are expected to keep the guide up-to-date.
If there are any questions, please contact the City Manager at City Hall.

Approved Date _____

_____
Mayor

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Section 1 Purchasing agent.

The city manager shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment and services of any nature whatsoever shall be approved and acquired by the purchasing agent or his authorized representative. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 2 General procedures.

Competitive bids in all supplies, materials, equipment, services and contracts for public improvements, except those specified elsewhere in this policy, shall be obtained, whenever practicable, and the purchase or contract awarded to the lowest responsible bidder, provided that any or all bids may be rejected as prescribed by this policy. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 3 Rejection of bids.

The purchasing agent 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 bid is less than $1,000. The purchasing agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees, or other monies of whatever nature that may be due the city by said vendor or contractor. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 4 Conflict of interest.

All employees who participate in any phase of the purchasing function are to be free of interests or relationships which are actually or potentially hostile or detrimental to the best interests of Red Bank, and shall not engage in or participate in any commercial transaction involving the city, in which they have a significant financial interest. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 5 Purchases from employees.

It shall be the policy of the city not to purchase any goods or service from any employee or close relative of any employee without prior approval of the city manager. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 6 Sealed bid requirements - $25,000.00 or greater.

On all purchases and contracts estimated to be in excess of twenty-five thousand dollars ($25,000.00), except as otherwise provided for in this policy, formal sealed bids shall be required to be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit the bids for award by the commission at the next regularly scheduled board meeting or special-called board meeting together with the board recommendation as to the lowest responsible bidder.

Notice inviting bids shall be published once in a newspaper of general circulation in Hamilton County, and at least five days preceding the last day of the receipt of the bids. The newspaper notice shall contain a general description of the articles to be purchased, shall state where the written specifications may be secured, and the time and place for opening bids.

In addition to publication in a newspaper, the purchasing agent may take any other actions deemed appropriate to notify all prospective bidders of the invitation to bid. This may be accomplished by delivery, verbally, by mail, or posting in a public place. (as added by Ord. #96-722, Jan. 1997, and amended by Ord. #00-830, Oct. 2000, Ord. #08-943, Dec. 2008, and Ord. #14-1014, Dec. 2014)

Section 7 Competitive bidding - $2,500.00 - $10,000.00.

(a) All purchases of supplies, equipment, requests for proposal, services and contracts estimated to be in excess of two thousand five hundred dollars ($2,500.00) but less than ten thousand dollars ($10,000.00), shall be by competitive bidding and may be awarded to the lowest responsible bidder. The purchasing agent shall, by appropriate means, solicit written proposals/bids from known and discernable vendors. The purchasing agent should solicit at least three (3) vendors. A written record shall be compiled, maintained and available for inspection showing the competitive bids were obtained by: direct mail, email, fax, telephone bids, or public notice. Such bids shall be received by the purchasing agent who shall award the bid to the lowest responsible bidder.

The city recorder shall verify account balances, prior to purchasing agent approval, for all purchases over seven hundred fifty dollars ($750.00).

In the purchasing agent's absence the city recorder shall approve the bid.

Competitive bidding- $10,000.00 - $25,000.00.

(b) All purchases of supplies, equipment, requests for proposal, services and contracts estimated to be in excess of ten thousand dollars ($10,000.00) but less than twenty-five thousand dollars ($25,000.00), shall be by competitive bidding and may be awarded to the lowest responsible bidder. The purchasing agent shall, by appropriate means, solicit written proposals/bids from known and discernable vendors. The purchasing agent should solicit at least three (3) vendors. A written record shall be compiled, maintained and available for inspection showing the competitive bids were obtained by: direct mail, email, fax, telephone bids, or public notice. Such bids shall be received by the purchasing agent who shall submit the bids so received for approval or rejection by the city commission at the next regularly scheduled or specially called board meeting together with the purchasing agent's recommendations as to the lowest responsible bidder, whereupon the city commission, by resolution, shall either authorize the purchasing agent to accept the lowest responsible bidder or shall reject and direct the purchasing agent to reject the purchase then under consideration.

The city recorder shall verify account balances, prior to purchasing agent approval, for all purchases over seven hundred and fifty dollars ($750.00). (as added by Ord. #96-722, Jan. 1997, and amended by Ord. #00-830, Oct. 2000, Ord. #08-943, Dec. 2008, and Ord. #14-1014, Dec. 2014)

Section 8 Purchases and contracts less than $2,500.00.

The purchasing agent is expected to obtain the best prices and services available for purchases and contracts of less than two thousand five hundred ($2,500.00), but is exempted from formal bid requirement mentioned in the two (2) previous sections. Exemptions from competitive bidding shall be in accordance with the provisions of Tennessee Code Annotated, § 6-56-301, et seq. to the extent not otherwise addressed herein. As a matter of policy, which may be amended by duly enacted resolution of the city commission, purchases of seven hundred fifty dollars ($750.00) or less may be effected by authorized department heads, the finance director, or city recorder without the requirement of contacting alternative sources and without the requirement of the use of departmental purchase orders or requisition forms. (as added by Ord. #96-722, Jan. 1997, and amended by Ord. #08-943, Dec. 2008, and Ord. #14-1014, Dec. 2014)

Section 9 Bid deposit.

When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The deposits shall be in such amount as the

purchasing agent shall determine and unsuccessful bidders shall be entitled to return of the deposits where such has been required. A successful bidder shall forfeit any required deposit upon failure on his part to enter a contract within ten (10) days after the award. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 10 Performance bond.

The purchasing agent may require a performance bond before entering a contract, in such amount as he shall find reasonably necessary to protect the best interests of the city and furnishers of labor and materials in the amount provided by Tennessee Code Annotated. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 11 Payment bond.

The purchasing agent shall require a payment bond on all contracts exceeding $25,000 or as required by statute. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 12 Record of bids.

The purchasing agent shall keep a record of all open market orders and the 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 in the city manager's office.

The bid file shall contain the following information:

(1) Request to start bid procedures.
(2) A copy of the advertisement.
(3) A copy of the specifications.
(4) A list of bidders and their responses.
(5) A copy of the purchase order.
(6) A copy of the invoice.

(as added by Ord. #96-722, § 3, Jan. 1997)

Section 13 Considerations in determining bid award.

In determining the lowest responsible bidder, in addition to price, the purchasing agent shall consider:

(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.

(6) The sufficiency of the financial resources and 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) Terms and conditions stated in the bid.

(9) Compliance with specifications.

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

AWARD SPLITTING - If total savings generated is less than $200.00, do not split the bid award. (as added by Ord. 396-722, § 3, Jan. 1997)

Section 14 Statement when award not given to low bidder.

When the award for purchases and contracts in excess of $200.00 is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere, shall be prepared by the purchasing agent or department head and filed with all the other papers relating to the transaction. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 15 Award in case of tie bids.

(1) If all bids received are for the same total amount, quality service being equal, the purchase or contact shall be awarded to a local bidder.

(2) Where a local vendor has not bid or where his bid is not the lowest tie bid, the purchasing agent shall award the purchase or contract

to one of the bidders by drawing lots in public. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 16 Back orders.

All orders must be completed, whether through complete fulfillment of the purchase order or through closing the purchase order with items not received. The non-delivered items will be cancelled from the purchase order and the check will be issued to the equal amount of the purchase order. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 17 Emergency purchases.

When in the judgment of the purchasing agent an emergency exists, the purchasing divisions of this policy may be waived, provided, however, the purchasing agent shall report the purchases/contracts to the city council at the next regular council meeting stating the item, the amount paid, from whom the purchase was made, and nature of the emergency.

POOR PLANNING AND MANAGEMENT DOES NOT CONSTITUTE AN EMERGENCY. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 18 Waiver of competitive bidding.

Upon recommendation of the city manager, that it is clearly to the advantage of the city not to contract by competitive bidding, the requirements of competitive bidding may be waived under the following circumstances:

(1) Single source of supply - The availability of only one vendor of a product or service within a reasonable distance of the city as determined after a complete search by the using department and the purchasing department. A written statement must be filed verifying single source supplier.

(2) State Department of General Services - These are purchases made through or in conjunction with the State Department of General Services (state contract). Municipalities may take advantage of the so-called "state prices" regardless of any charter or general law requirements. TCA 12-3-1001. These bids may be viewed on the monthly microfiche file received from the state.

(3) Purchase from other governments - Any municipality may purchase from any federal, state or local governmental unit or agency, second-hand articles of equipment or other materials,

supplies, commodities, and equipment. The purchasing agent, all department heads, and city staff will be authorized to sign for these purchases. These purchases may be made without competitive bidding and public advertising regardless of charter requirements. TCA 12-2-1003.

(4) Purchases from non-profit corporations - Any municipality may purchase from any non-profit corporation whose sole purpose is to provide goods and services specifically to municipalities, such as Local Government Data Processing. TCA 6-56-302.

(5) Purchases from Tennessee State Industries.

(6) Purchases from Instrumentalities created by two or more cooperating governments. TCA 12-9-101.

(7) Certain Insurance - Municipalities may purchase tort liability insurance, without competitive bidding from the Tennessee Municipal League, or any other plan authorized and representing cities and counties. TCA 29-20-407.

(8) Investments in or purchases from the pooled investment fund established pursuant to TCA 9-17-105.

(9) Purchases of fuels, fuel products, or perishable commodities.

(10) Professional Service Contracts - Any services of a professional person or firm, including attorneys, accountants, physicians, architects, and consultants required by the city, whose fee is $500.00 or more, shall be evidenced by written contract. The contract will be awarded on the basis of recognized competence and integrity rather than on competitive bids. Competitive bidding shall be prohibited for such services. TCA 29-20-407. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 19 Property control.

A physical inventory of the city's fixed assets must be taken annually. A system of fixed asset records provides a simple method of positive identification for each piece of equipment. It prevents the purchase of: (1) unneeded and duplicate assets; (2) provides a basis for insurance claims, (3) theft and negligence are decreased; (4) sets replacement schedules for equipment; (5) and notes transfer or disposal of surplus property.
To be classified as a fixed asset, an item must:

(1) be tangible
(2) have a life longer than the current year
(3) have a value of over $100.00

Any property and equipment that meets these criteria shall be assigned an asset number (affixed with a property sticker), have a completed property card, and be inventoried annually. Such records shall be controlled and maintained by the city manager. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 20 Disposal of surplus property.

The purchasing agent shall be in charge of the disposal of surplus property and make a full report to the city board. When a department determines there is surplus equipment or materials within the department, he/she will notify the purchasing agent in writing of any such equipment. The purchasing agent may transfer surplus equipment or materials from one department to another. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 21 Employees participating in the disposal of surplus property.

No city employee above the rank of foreman shall be permitted to bid on surplus property. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 22 Items consumed in the course of work thought to be worthless.

City property which may be consumed in the course of normal city business and items thought to be worthless shall be disposed of in a like manner as any other refuse. These items shall be simply charged off as a routine cost of doing business. (as added by Ord. #960722, § 3, Jan. 1997)

Section 23 Items estimated to have monetary value.

When disposing of items estimated to have monetary value, the purchasing agent shall follow the following procedures:

(1) Obtain from the city board a resolution declaring said item(s) surplus property and fixing the date, time, and place for the purchasing agent to receive bids.

(2) A bid notice shall be advertised in a local newspaper with general circulation **five days** prior to bid date.

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

(4) All pertinent information will be noted in the fixed asset records of the city as to the disposal of the items.

(5) The advertisement, bids, and property cards shall be retained for a minimum period of five years. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 24 Surplus property painted with city colors or with city emblems.

No surplus city property painted with city colors and/or with a city emblem shall be disposed of unless it is repainted with colors other than those of the city and/or the emblem removed. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 25 Cash discounts.

It shall be the policy of the city to take cash discounts on purchases when funds are available. (as added by Ord. #96-722, § 3, Jan. 1997)

Section 26 Definitions.

When used in the context of this manual and in the authorization of the purchase order, contractual agreements, invitations to bid, or other pertinent documents, the words, conditions and phrases below shall have the following meanings:

(1) **Accept**: To receive with approval or satisfaction.

(2) **Acknowledgement**: Written confirmation from the vendor to purchaser of an order implying obligation or incurring responsibility.

(3) **Agreement**: A coming together in opinion or determination, understanding and agreement between two or more parties.

(4) **All or None**: Red Bank reserves the right to award each item individually or to award all items on an "all or none basis."

(5) **Annual**: Recurring, done or performed every year.

(6) **Appropriations**: Public funds set aside for a specific purpose.

(7) **Approved**: To be satisfied with; admit the propriety or excellence of; to be pleased with; to conform, to ratify.

(8) **Approved equal**: Alike; uniform; on the same plane or level with respect to efficiency, worth, value, amount or rights.

(9) **Attest**: To certify to the verity of a public document formally by signature; to affirm to be true or genuine.

(10) **Award**: The presentation of a contract to a vendor, to grant; to enter into with all required legal formalities.

(11) **Awarded Bidder**: Any individual, company, firm, corporation, partnership, or other organization to whom an award is made by the city.

(12) **Back Order**: The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.

(13) **Bid**: A vendor's response to an Invitation for Bids; the information concerning the price or cost of materials or services offered by a vendor.

(14) **Bidder**: Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the purchasing agent and offering to enter into contracts with the city. The term "bidder" will be used throughout this document and shall be construed to mean "offeror" where appropriate.

(15) **Bid Bond**: An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.

(16) **Bid File**: A folder containing all of the documentation concerning a particular bid. This documentation includes: the names of all vendors to whom the invitation to bid was mailed, the responses of the vendors, the bid tabulations form and any other information as may be necessary.

(17) **Bid Opening**: The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.

(18) **Bid Solicitation**: Invitations for bids.

(19) **Blanket Bid (order)**: A typed of bid used by buyers to purchase repetitive products. The city establishes its need of a product for a specified time. The vendor is then informed of the city's expected usage duration of the contract. The city will order small quantities of these items from the vendor over the life of the contract.

(20) **Business**: Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or legal entity through which business is conducted.

(21) **Cancel**: To revoke a contract or bid.

(22) **Capital Items**: Equipment which has an expected life span of one year or longer and a value (usually) in excess of $1,000.00.

(23) **Cash Discount**: A discount from the purchase price allowed to the purchaser if payment is made within a specified time.

(24) **Caveat Emptor**: Let the buyer beware; used in proposals or contracts to caution a buyer to avoid misrepresentation.

(25) **Certify**: To testify in writing; to make known or establish as a fact.

(26) **Competitive Bidding**: Bidding on the same undertaking or material items by more than one vendor.

(27) **Conspicuously**: To be prominent or obvious; located, positioned, or designed to be noticed.

(28) **Construction**: The building, alteration, demolition or repair (including, but not limited to, dredging, excavating and painting) of public buildings, structures and highways, and other improvements or additions to real property.

(29) **Contract**: An agreement, grant or order for the procurement, use or disposal of supplies, services, construction, insurance, real property or any other item.

(30) **City**: Red Bank, Tennessee.

(31) **Data**: Recorded information, regardless of form or characteristic.

(32) **Delivery Schedule**: The required or agreed upon rate of delivery of goods or services.

(33) **Discount for prompt payment**: A predetermined discount offered by a vendor for prompt payment.

(34) **Encumber**: Reserve funds against a budgeted line item; to charge against an account.

(35) **Evaluation of Bid**. The process of examining a bid to determine a bidders responsibility, responsiveness to requirements, other characteristics of the bid that determine the eventual selection of a winning bid.

(36) **Fiscal Year**: An accounting period of 12 months, July 1 through June 30.

(37) **F.O.B. Destination**: An abbreviation for "free on board" that refers to the point of delivery of goods. The seller absorbs transportation charges and retains title to and responsibility for the goods until Red Bank has received and signed for the goods.

(38) **Goods**: All materials, equipment, supplies, printing.

(39) **Invitation to Bid**: All documents utilized for soliciting bids.

(40) **Invoice**: A written account of merchandise and process, delivered to the purchaser; a bill.

(41) **Lead Time**: The period from date of ordering to date of delivery which the buyer must reasonably allow the vendor to prepare goods for equipment.

(42) **Life Cycle Costing**: A procurement technique which considers the total cost of purchasing, maintaining, operating and disposal of a piece of equipment when determining low bid.

(43) **Material Receiving Report**: A form used by the receiving function of an agency to inform others of the receipt of goods purchased.

(44) **Performance Bond**: A bond given to the purchaser by a vendor (or contractor) guaranteeing the performance of certain services or delivery of goods within a specified time. The purpose is to protect the purchaser against a cash loss which might result if the vendor did not deliver as promised.

(45) **Pre-bid Conference**: A meeting held with potential vendors a few days after an invitation for bids has gone out to promote uniform interpretation of work statements and specifications by all prospective contractors.

(46) **Procurement or Purchasing**: Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item. It also includes all functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including description of requirements, selection and solicitation of sources, preparation and award of contract, contract administration, and all phases of warehousing and disposal.

(47) **Public**: Open to all.

(48) **Public Purchasing Unit**: Means the State of Tennessee, any county, city, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

(49) **Purchase Order**. A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should contain statements about the quantity, description, and price of goods or services ordered; agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

(50) **Reject**: Refuse to accept, recognize, or make use of, repudiate, to refuse to consider or grant.

(51) **Responsive Bidder**: One who has submitted a bid which conforms in all material respects to the invitation for bids.

(52) **Sealed**: Secured in any manner so as to be closed against inspection of contents.

(53) **Sealed Bids**: Written proposals or offers which are submitted by potential vendors before a certain date to a purchasing agent who has provided complete information regarding specifications and quantities required.

(54) **Sole Source Procurement**: An award for a commodity which can only be purchased from one supplier, usually because of its technological, specialized, or unique character.

(55) **Specifications**: Any description of the physical or functional characteristics of a supply, service or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

(56) **Standardization**: The making, causing, or adapting of items to conform to recognized qualifications.

(57) **Telephone Bids**: Contacting one or more vendors to obtain oral quotes for items of a value less than $1,000.00.

(58) **Vendor**: The person who transfers property, goods, or services by sale. (as added by Ord. #96-722, § 3, Jan. 1997)

PURCHASING FORMS AND METHODS

II. Departmental Purchase Orders

a. Use

Departmental purchase orders shall be used to allow the using department to handle small purchases without having to process a requisition through the purchasing office.

b. Initiation and Approved Limit

Departmental purchase orders are to be used for buying items which cost seven hundred fifty dollars ($750.00) or less. The department head may fill out a departmental purchase order.

c. Routing of Department Purchase Orders

A departmental purchase order is a three-part form containing the following:

- White Copy: original given to the vendor
- Pink Copy: Acknowledgement copy; will be sent to vendor along with the white copy. The vendor will sign and return the pink copy to the department head, confirming the order. The pink copy will be attached to the packing slip, delivery ticket, invoice, material receiving report, etc., by the receiving department and forwarded to the purchasing officer. The purchasing agent will initial and forward to the finance officer for payment.

- Xerox Copy: Forwarded to the purchasing officer for filing.

d. General Information

The department head is responsible for keeping expenses within budgetary appropriations. The city manager may suspend the use of departmental purchase orders when he determines their use has been abused.

These purchase orders will be numbered and issued to the using department by the Purchasing Officer. It is the responsibility of the department head, considering price and quality, to determine

the best source of supply. All local sources should be considered before a purchase is made.

The department head shall not use the department purchase order to purchase items bid in bulk by the purchasing agent such as automobile tires, pens, stationery. The department head is not authorized to sign leases or contracts for services.

If the purchase is over the dollar limit, under no circumstances may multiple forms be used in an effort to avoid filling out a purchase requisition. (as added by Ord. #96-722, Jan. 1997, and amended by Ord. #14-1014, Dec. 2014)

III. Purchasing Requisition

a. Purpose

A purpose requisition lets the purchasing agent know, in detail, what the using department needs. A requisition is required for purchases made in excess of seven hundred fifty dollars ($750.00), requesting price information, initiating a bid request, and for requesting governing body approval on major expenditures.

b. When Prepared

Requisitions shall be prepared far enough in advance so the purchasing department can obtain competitive prices and the vendor has enough time to make the deliver.

c. Who Prepares the Requisition

Requisitions shall originate in the using department and must be signed by the requisitioner and the department head.

d. Description

Give a clear description of the items including size, color, type, etc. If the purchase is of a technical nature, specifications should be attached to the requisition. If the item cannot be described without a great amount of detail, a brief description should be given, followed by a trade name and model number of an acceptable item "or approved equal". Requisitions most not give specifications that will favor one supplier to the exclusion of any other. NOTE: Incomplete information in this area will result in the requisition being returned to the using department for clarification.

e. Routing of Requisitions

Prepare three copies of the purchase requisition. Send the original and one copy to the purchasing officer and keep the third copy in departmental file. After the purchasing officer has received three quotations or bids and has total cost of the merchandise, the cost will be listed on the original and one copy of the requisition. These copies shall then be forwarded to the finance officer. The finance officer shall certify, by signature, that the proper account has been charged and the availability of budgetary and cash flow. The

original requisition must then be returned to the purchasing officer and the copy filed in the office of the finance officer.

f. General Information

A requisition must be completed before a purchase is made, except when mentioned otherwise.

The purchase officer will get prices for any needed item after receipt of a departmental requisition. All requests for prices will be processed in this manner.

Suggested vendors will be of great assistance to the purchasing officer and will be given full consideration. This information will help the purchasing officer process the requisition quickly. Appropriately costs of items will help the buyer know if bids are required.

If a requisition is incomplete or improperly prepared, the purchasing officer shall return it to the using department for completion. An incomplete requisition can cause unnecessary delays.

The requisitioner shall not split orders to avoid any provision of the city code or charter, this manual, or any policy established by the city, nor shall requisitions be submitted for the sole purpose of using up budgetary balances.

g. Expediting Orders

If a company is waiting for a purchase order to process a rush job, write EXPEDITE IMMEDIATELY in the body of the requisition. The purchasing officer will then contact the vendor and supply a purchase order number. This process will be the exception rather than the rule.

h. Insufficient Funds

If the finance officer says there is not enough in the budget account, it will be referred to the purchasing officer, who will notify the department head. (as added by Ord. #96-722, Jan. 1997, and amended by Ord. #14-1014, Dec. 2014)

IV. Purchase Order

a. Purpose

A purchase order authorizes the seller to ship and invoice the materials and services as specified. Purchase orders should be written in a clear, concise, and complete manner. This will prevent confusion and unnecessary correspondence with suppliers.

b. When Prepared

Purchase orders are issued only after a requisition has been submitted and approved by the purchasing agent and the finance officer. No purchase order will be issued until the finance officer has certified adequate funds and cash balances to make the purchase, except as otherwise mentioned herein.

c. Who Issues the Purchase Order

The purchasing agent issues the purchase orders, except as otherwise provided herein. The using department will not enter into negotiations with suppliers for the purchase equipment, supplies, materials, services, or other items, except under the emergency purchase procedures and or otherwise provided herein.

d. How Purchase Orders are Handled

The purchase order is made from the approved requisition and is prepared in six copies: White, blue, yellow, pink, green, and orange.

- White copy is mailed to the vendor to be used as authority to furnish the city the materials or services indicated.
- Blue copy is sent to the finance officer and the account which handles the amount of the purchase order.
- Yellow copy is sent to the department head making the request, to be held until the goods or services are received. Upon completion of the order or contract, the yellow copy will be signed and invoices and material receiving report attached. This copy is sent to the purchasing agency for discounting and processing for payment.
- Pink copy is kept by the purchasing agent and filed as record of outstanding order. When paid, the pink copy will be marked properly and put in a completed file in numerical order.

- Green copy is the department copy and should be kept in each department's file for reference.
- Orange copy is acknowledgment and will be sent to the vendor along with the white copy. The vendor will sign and return the orange copy to the purchasing agent, confirming the order.

e. Cancellations

The purchasing department must initiate all cancellations and will issue a purchase order to the next best vendor or renew the purchasing process. (as added by Ord. #96-722, § 3, Jan. 1997)

V. Material Receiving Report

a. Purpose

The material receiving report form is designed to let the purchasing agent and the finance officer know an item(s) of a particular order has been received.

b. When Prepared

The form is completed immediately on receipt of materials, supplies, or services.

c Who Prepares

The person receiving the merchandise.

d. When an item(s) isn't in satisfactory condition, a statement about the condition of the item(s) must be made. If the box is damaged put it on this report and on the shipper's document.

e. Also use this report document for receipt of a partial shipment. (as added by Ord. #96-722, § 3, Jan. 1997)

APPENDIX D[1]

RECORDS MANAGEMENT SYSTEM

BE IT ORDAINED by the Commissioners of the City of Red Bank, Tennessee, that the following is set forth as a system and schedule for the retention, disposal and destruction of certain municipal records:

Section 1.

Article 1. Animal Control

1A. Dog Licenses-one year or until expiration of license
1B. Pound Records-until audited plus one year

Article 2. Cemeteries

2A. Deed book-permanent
2B. Interment records-permanent
2C. Maps and plate-permanent

Article 3. Court

3A. Docket-permanent
3B. Litigation tax report-until audited plus one year
3C. Motor vehicle enforcement report-until audited plus one year
3D. Report of fines, fees and costs-until audited plus one year
3E. Processes issued-three years after service

Article 4. Engineering

4A. As built plans-life of structure or improvement
4B. Assessment records-until all are paid
4C. Easements-permanent
4D. Maps and plate-permanent
4E. Plans and specifications-life of structure or improvement
4F. Right-of-way agreements-permanent
4G. Survey records-permanent
4H. Deeds and easements-permanent

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[1]Ord. No. 97-727 added these provisions to the municipal code as Appendix B. However since an Appendix B and an Appendix C already existed, these provisions were added here as Appendix D.

Article 5. Finance

5A. Accounts payable-five years
5B. Accounts receivable-five years
5C. Audit reports-25 years
5D. Bank reconciliations-five years
5E. Bank statements-five years
5F. Bond registers-until all bonds are retired and audited
5G. Budgets-five years
5H. Cancelled checks-five years
5I. Cancelled bonds and coupons-until all bonds are retired and audited
5J. Certificates of deposit-until maturity plus three years
5K. Check registers-until audited plus three years
5L. Check stubs-until audited plus three years
5M. Deposit slips-until audited plus three years
5N. Financial statements-five years
5O. General ledgers-five years
5P. Journal vouchers-five years
5Q. Subsidiary ledgers-five years
5R. Trial balanced-until audited plus three years

Article 6. Fire

6A. Inspection reports-five years
6B. Radio and telephone logs-five years
6C. Training reports-five years
6D. Vehicle and equipment maintenance records-life of vehicle or equipment

Article 7. General Administration

7A. Accident reports owned by the City-seven years
7B. Alcoholic Beverage Commission Applications-until license expires
7C. Applications for beer licenses-until license expires
7D. Applications for business tax licenses-one year and audited by state
7E. Beer licenses-until license expires
7F. Budget files-five years
7G. Business license-until license expires and audited by state
7H. Business tax report-five years
7I. Certificates of publication-five years
7J. Charter-permanent
7K. Codes-until repealed or superseded

7L. Insurance policies/surety bonds-until expired plus six years
7M. Litigation files-10 years after hearing
7N. Minute books-permanent
7O. Ordinance books-permanent
7P. Personal property inventory-until superseded
7Q. Petitions-five years or until resolution of issue
7R. Real property inventory-until superseded
7S. Resolutions-permanent

Article 8. Inspections

8A. Applications for permits-life of structure or improvement
8B. Certificates of occupancy-10 years
8C. Inspection records-life of structure or improvement
8D. Permits-life of structure or improvement

Article 9. Payroll

9A. Annual wage and tax statements-seven years
9B. Cancelled payroll checks-five years
9C. Employee earnings history-until presumption of death (70 years)
9D. Garnishments-until released plus three years
9E. Payroll fund bank statements-five years
9F. Payroll journals-five years
9G. Payroll earnings and deductions registers-until assumption of death (70 years)
9H. Quarterly tax report-seven years
9I. Time cards-until audited plus three years
9J. Time sheets-until audited plus three years
9K. Withholding allowance certificates (W-4 's) -until inactive or superseded

Article 10. Parks and Recreation

10A. Contracts and agreements (facility use)-until expired plus ten years
10B. Minutes of boards-permanent

Article 11. Personnel

11A. Affirmative actions plans-permanent
11B. Employment applications-hires, employee file; non-hires, three years

11C. Employment examinations-hires, employee file; non-hires, three years
11D. Individual employee files-until presumption of death (70 years)
11E. Pay plans-until superseded
11F. Performance evaluations-employee file
11G. Physical/psychological exams-employee file
11H. Position descriptions-until obsolete or superseded
11I. Workers, compensation claims-employee file

Article 12. Planning and Zoning

12A. Board of Appeals requests-20 years
12B. Minutes of Commissions and boards-permanent
12C. Reports/recommendations to governing body-five years
12D. Request for zoning changes-20 years
12E. Studies and reports-permanent or until superseded
12F. Zoning map and ordinance-permanent

Article 13. Police

13A. Arrest reports-until presumption of death (70 years)
13B. Breath tests-five years
13C. Crime report-five years
13D. Dispatching logs-five years
13E. Processes served-three years after last entry
13F. Property receipts-until property released or disposed of plus three years
13G. Radio and telephone logs-five years
13H. Reports to state and federal agencies-five years
13I. Stolen property reports-five years
13J. Traffic accident reports-five years
13K. Traffic citations-three years

Article 14. Purchasing

14A. Bid advertisements-until audited plus one year
14B. Bid specifications-until audited plus one year
14C. Bid tabulations-until audited plus one year
14D. Formal bids-successful, seven years; unsuccessful, one year
14E. Paid invoices-until audited plus three years
14F. Purchase agreements-life of equipment plus three years
14G. Purchase orders-until audited plus three years
14H. Requisitions-until audited plus three years
14I. Telephone quotes-until audited plus one year

14J. Written quotes-until audited plus one year

Article 15. Utilities (Billing and Collecting for Service)

15A. Billing registers-five years
15B. Customer deposit ledger-permanent
15C. Customer deposit receipts-five years
15D. Customer ledgers-five years after last entry
15E. Meter readings-five years
15F. Paid bill stubs-until audited plus three years

Article 16. Utilities (Operation and Maintenance)

16A. As-built plans-life of structure or improvement
16B. Maintenance records-permanent
16C. Meter records-until removed from service plus three years
16D. Plans and specifications-life of structure or improvement
16E. Plant operation records-five years
16F. Reports to regulatory agencies-20 years
16G. System maps-permanent

Article 17. Property Tax

17A. Application for tax relief-one year
17B. Assessment roll-three years
17C. Delinquent tax records-three years or until collected (10 year maximum)
17D. Notices to taxpayers (tax bill)-one year
17E. Tax receipt-five years
17F. Tax roll-permanent

Article 18. Miscellaneous (Common to All Functions)

18A. Activity reports (monthly)-one year
18B. Activity reports (annual)-five years
18C. Audio/video recordings-10 years or until superseded
18D. Contracts and agreements-until expiration plus ten years
18E. Daily cash reports-until audited plus three years
18F. Departmental correspondence-10 years
18G. Executive correspondence-10 years
18H. Plans and specifications-life of structure or improvement
18I. Routine correspondence-three years
18J. Radio and telephone logs (other than fire and police)-two years
18K. Receipts-until audited plus three years

Section 2.

Article 1. General

1A. Permanent records may be kept on microfilm. Computer printouts and other electronically generated materials, computer disks, tapes, and other information storage formats are records and are also subject to schedules.

1B. The city recorder or the city manager are authorized to dispose of records as per the above schedule.

1C. Records of possible historical significance, such as old maps, plate or deeds, should be offered to the local public library or historical society before they are destroyed.

Section 3. The city manager shall be responsible for the oversight and implementation of the system hereby adopted. (as added by Ord. #727, March 1997)

APPENDIX E
PLACEMENT AND INSTALLATION OF CABLE AND SERVICE PROVIDER FACILITIES

(as added by Ord. #09-946, Feb. 2009)

APPENDIX E

PLACEMENT AND INSTALLATION OF CABLE AND SERVICE PROVIDER FACILITIES

EXHIBIT A

Buildings and Density

$ Building height shall be limited to three habitable (3) stories, including penthouses.

$ No significant increase in developable area, excluding areas of storm water facilities, beyond what is shown on the PUD plan dated 09/09/2008 shall be permitted.

$ All buildings must be completely within the City of Red Bank as shown on the preliminary site plan dated 09/09/2008.

$ Changes to housing types in the PUD will constitute a major change as defined by the Red Bank Zoning Regulations and should require review and approval by the Red Bank Municipal Planning Commission.

$ All residential buildings and/or any proposed parking structures located within the City of Red Bank shall be equipped with fire protection sprinkler systems.

Municipal Services

$ A written determination provided by the applicant of how municipal services, typical or otherwise, will be provided by the development is required and subject to the approval, modification or rejection prior to final PUD plan approval by the Red Bank Municipal Planning Commission. The written agreement and/or documentation shall be made available to all appropriate departments within the City of Red Bank as to who is responsible for providing general municipal services.

$ The developer/applicant would have to work with either the City of Chattanooga or the Hamilton County Waste Water Treatment Authority (WWTA) prior to final approval of the final PUD Plan in terms of waste water and storm water capacity issues and the desired/appropriate location of proposed sewer lines.

Access and Access Control

The following conditions associated with access and access control were developed and associated with the submittal of the four (4) PUD plans submitted in December/January that would have replaced the existing approved and recorded PUD plan located within Chattanooga. The following issues/concerns are still relevant and will need to be addressed by the current property owner/developer prior to the issuance of any building permits with the

City of Chattanooga because the access to the site is through the City of Chattanooga and not the City of Red Bank.

- $ Access to the City of Red Bank via Hiram Avenue or other access point is required prior to final approval. This access is not required if all residential buildings within the corporate limits of Red Bank are sprinkled for public safety. This access is not required as developer has agreed to equip all residential building and parking structures with fire protection sprinkler systems.
- $ Per Article 361.05.01 Access Control within the Red Bank Zoning Regulations, all commercial, industrial and apartment complexes of four (4) or more dwelling units must file an access control plan with the City of Red Bank and must have such plan approved by the City Engineer prior to obtaining a building permit.
- $ Access to the development located within the City of Red Bank will be by way of existing approved PUD plan with a single-entry egress/ingress point a W. Bell Avenue within the City of Chattanooga. The proposed PUD concept within the City of Red bank shall be subject to, reviewed and approval or modification by the traffic engineer for the City of Chattanooga prior to receiving final approval of the PUD plan within the City of Red Bank.
- $ Detailed engineering drawings showing the West Bell Avenue access point are required and must be approved by the City of Chattanooga Traffic Engineer prior to the issuance of building permits within the City of Red Bank.
- $ If High Ridge Road is used as a primary access point, pending approval of the City of Chattanooga Traffic Engineer, roadway improvements must be made at the direction of the City of Chattanooga Engineer. If High Ridge Road is the designated construction access, improvements to the roadway for such access shall be made at the direction of the Chattanooga City Engineer and Chattanooga City Traffic Engineer.
- $ The location and design of an additional primary access point (other than W. Bell Storm Water/Erosion Control Avenue) is required and must be approved by the City Traffic Engineer. The timing of the provision of the additional access shall be determined by the City Traffic Engineer and Fire Department.
- $ Changes to the PUD or access points or a substantial time lapse between the preliminary and final approval may require an updated traffic impact study at the determination of the Chattanooga City Traffic Engineer.
- $ Construction access may be limited at the discretion of the Chattanooga City Traffic Engineer in order to reduce the impact of construction on the neighborhood streets.
- $ Access to greenways and/or land transferred to the Trust for Public Land via conservation easement, fee simple donation, et cetera shall be

accessible to the public unless otherwise designated by the City of Red Bank.

Parking

$ A parking plan showing parking structures and parking areas (streets, driveways, etc.) shall be provided to the City of Red Bank and subject to review or modification by the City ofRed Bank. The submitted preliminary PUD plan does indicate the location of parking areas, structures and driveways, etc.

$ Article 361.05 (B) Off-Street Parking Regulations, The Red Bank Zoning Regulations, currently requires 1.5 parking spaces per dwelling unit for apartment dwellings, but are subject to change without notice.

Storm Water/Erosion Control

$ The applicant shall work with the City of Chattanooga and City of Red Bank in order to determine the feasibility and necessity of utilizing low impact development techniques to control storm water.

$ A geotechnical soil boring report for the site shall be provided prior to final approval by the Red Bank Municipal Planning Commission and prior to receiving any building permits with the City of Red Bank, details of information to be provided in the report will be designated by the City of its designee.

Greenways/Open Space

$ The applicant and the Trust for Public Land shall enter into a binding agreement for the transfer of conservation easements and/or land in fee simple to the Trust for Public Land for the construction of a public greenway system and the preservation of portions of Stringers Ridge prior to final approval.

$ On-site open-space should be shown on the preliminary PUD plan. On-Site Usable recreation and open space shall be provided. Such area shall be set aside for open space and recreation. The site plan does show a 100' buffer, this area could be used as the on-site recreation.

Reforestation

$ The applicant shall provide an updated grading plan reflective of final grades, including disturbance for storm water controls, to allow staff to identify areas that will be disturbed. After that determination additional information may be required and areas that must be reforested may be identified by staff. Areas so identified must be reforested as designated. (as added by Ord. #09-946, Feb. 2009)

EXHIBIT B

(E.) **Non-residential zones**. In non-residential zones and rights of way adjacent to such areas accessory facilities with a height of less than 5 feet and covering less than 16 square feet in area may be installed above ground with the prior approval of the City. Except as otherwise may be authorized herein, any larger facility shall be installed underground or authorized to be installed above ground only by special use permit after a hearing before the Board of Zoning Appeals (Red Bank Zoning Ordinance, Section 11-206, et seq.). All above ground facilities, where authorized, shall be placed in the rear yard wherever practical. If locating these facilities in the rear yard is not practical, then such may be located in the side yard. Such facilities shall not be located in the front yard or within the public right of way unless specifically approved by the City upon a determination that all other alternatives are not feasible.

(F.) **Landscape screening**. A sight-proof landscape screen shall be provided for all authorized above ground facilities in excess of 2 square feet in size. Such screen shall be required to sufficiently conceal the facility. A landscape plan identifying the size and species of landscape materials shall be submitted to the Planning Commission by the cable service provider or their contractor or agent. As an alternative to 'landscape screening, the Planning Commission may permit wooden privacy fencing to be installed around the facility. The landscape plan (or privacy fencing, if appropriate) shall be submitted and approved by the Red Bank Planning Commission prior to the installation of any facility requiring screening under these provisions. The Planning Commission shall approve the landscape/screening plan to the extent it meets or exceeds the purposes of these requirements. Facilities located in rear yards may be exempted from screening requirements where located so as not to be visible from (1) any public property and (2) more than two residential dwelling units.

(G.) **Compliance with other laws and regulations**. All accessory facilities shall be subject to all other applicable regulations and standards as established as part of the Municipal Code, including but not limited to building codes, zoning requirements and rights of way management in addition to the supplementary regulations herein. The provisions of this Section 1203(1) shall not apply to any circumstance or entity in which application is preempted or otherwise precluded by superceding law. (as added by Ord. #09-946, Feb. 2009)

ORDINANCE NO. 96- 720

AN ORDINANCE OF THE RED BANK CITY TENNESSEE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF RED BANK, TENNESSEE.

WHEREAS, some of the ordinances of the City of Red Bank are obsolete; and

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

WHEREAS, the Board of Commissioners of the City of Red Bank, 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 "Red Bank Municipal Code".

NOW, THEREFORE,

BE IT ORDAINED by the Commissioners of the City of Red Bank, Tennessee, as follows:

Section 1. Ordinances codified. All ordinances of the City of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles", namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Red Bank 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 office or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the City or authorizing the issuance of any bonds or other evidence of said City's indebtedness; any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right of franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the City.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the

municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than 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".

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

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

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

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

Ralph C. Bauer
MAYOR

Margaret Dillard
CITY RECORDER

September 17, 1996
PASSED ON FIRST READING

October 1, 1996
PASSED ON SECOND READING

October 15, 1996
PASSED ON THIRD AND FINAL READING

APPROVED AS TO FORM:

CITY ATTORNEY