

**THE
RIPLEY
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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CITY OF RIPLEY, TENNESSEE

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PREFACE

The Ripley Municipal Code contains the codification and revision of the ordinances of the City of Ripley, 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 § 2-106.

By utilizing the table of contents, code index 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 recorder for a comprehensive and up to date review of the city's ordinances.

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 7 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if

justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of the codes team: Kelley Myers and Nancy Gibson is gratefully acknowledged.

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

Section 7. The Mayor and Aldermen are empowered to appoint (but not from their own number) some suitable and capable person to be known as Recorder - Treasurer, who shall hold the office at the pleasure of the Mayor and Aldermen and whose salary shall be fixed by the Mayor and Aldermen, and who shall have the powers, duties and liabilities as are imposed upon the Recorder and Treasurer of the City of Ripley by this Act and shall have such other and further duties and liabilities as may be prescribed and imposed upon him by the Mayor and Aldermen by ordinance or otherwise or by the further provisions of this Act. Before entering upon the duties of his office he shall take an oath to be filed in writing with the Mayor of the City to faithfully perform all the duties of his office and to do and perform all that is required of him by the Mayor and Aldermen by ordinance or otherwise. He shall execute a bond payable to the Mayor and Aldermen with security to be approved by them in such amount as the Mayor and Aldermen may prescribe, and conditioned to be void only if he shall fully and truly account for and pay over as may be required by the Mayor and Aldermen all funds of the corporation that may or should come into his hands and to faithfully discharge and perform all other duties required of him by law or the Mayor and Aldermen.

Section 8.

a. A majority of the Mayor and Aldermen shall be a quorum to do business; provided, however, that a smaller number than a quorum may adjourn from day to day, and may compel the attendance of absent members by fines and penalties. No ordinance or resolution or other act of the Mayor and Aldermen shall be passed or become effective unless it receives a majority of the votes of the Mayor and all Aldermen in its favor. An ordinance shall be considered and adopted on at least two (2) separate days; any other form of action of the Mayor and Aldermen shall be considered and adopted on one (1) day.

TABLE OF CONTENTS

PAGE

INTRODUCTION

OFFICIALS OF THE CITY AT TIME OF CODIFICATION.....	ii
PREFACE.....	iii
ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE CITY CHARTER.....	v

CHARTER

CHARTER TABLE OF CONTENTS.....	C-1
TEXT OF CHARTER.....	C-3

CODE OF ORDINANCES

CODE-ADOPTING ORDINANCE.....	ORD-1
TITLE 1. GENERAL ADMINISTRATION.....	1-1
CHAPTER	
1. BOARD OF MAYOR AND ALDERMEN.....	1-1
2. MAYOR.....	1-3
3. RECORDER-TREASURER	1-4
4. CODE OF ETHICS.....	1-5
TITLE 2. BOARDS AND COMMISSIONS, ETC.	2-1
RESERVED FOR FUTURE USE	
TITLE 3. MUNICIPAL COURT.....	3-1
CHAPTER	
1. COURT ADMINISTRATION.....	3-1
TITLE 4. MUNICIPAL PERSONNEL	4-1
1. SOCIAL SECURITY.....	4-1
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.....	4-2

	<u>PAGE</u>
TITLE 5. MUNICIPAL FINANCE AND TAXATION	5-1
CHAPTER	
1. MISCELLANEOUS	5-1
2. REAL PROPERTY TAXES.	5-2
3. PRIVILEGE TAXES GENERALLY.	5-3
4. WHOLESALE BEER TAX	5-4
5. PURCHASING	5-5
TITLE 6. LAW ENFORCEMENT	6-1
CHAPTER	
1. POLICE AND ARREST	6-1
TITLE 7. FIRE PROTECTION AND FIREWORKS.	7-1
CHAPTER	
1. FIRE DISTRICT	7-1
2. FIRE CODE	7-4
3. FIRE DEPARTMENT.	7-6
4. FIRE SERVICE OUTSIDE FIRE LIMITS	7-8
5. FIREWORKS	7-9
6. FIRE ALARMS	7-11
TITLE 8. ALCOHOLIC BEVERAGES	8-1
CHAPTER	
1. INTOXICATING LIQUORS.	8-1
2. BEER.	8-7
TITLE 9. BUSINESS, PEDDLERS, SOLICITORS, ETC.	9-1
CHAPTER	
1. PEDDLERS, SOLICITORS, ETC.	9-1
2. YARD SALES	9-5
3. ADULT-ORIENTED ESTABLISHMENTS.	9-8
4. MOBILE FOOD PREPARATION VEHICLES	9-21
TITLE 10. ANIMAL CONTROL.	10-1
CHAPTER	
1. IN GENERAL	10-1
2. DOGS AND CATS	10-3

	<u>PAGE</u>
TITLE 11. MUNICIPAL OFFENSES	11-1
CHAPTER	
1. ALCOHOL	11-1
2. OFFENSES AGAINST THE PEACE AND QUIET ...	11-2
3. FIREARMS, WEAPONS AND MISSILES	11-5
4. TRESPASSING AND INTERFERENCE WITH TRAFFIC.....	11-6
5. PANHANDLING	11-7
6. MISCELLANEOUS	11-9
TITLE 12. BUILDING, UTILITY, ETC. CODES.....	12-1
CHAPTER	
1. BUILDING CODE	12-1
2. PLUMBING CODE.....	12-5
3. ELECTRICAL CODE.....	12-7
4. FUEL GAS CODE	12-8
5. RESIDENTIAL CODE.....	12-10
6. ENERGY CONSERVATION CODE	12-14
7. MECHANICAL CODE.....	12-16
8. PROPERTY MAINTENANCE CODE.....	12-18
9. SWIMMING POOL AND SPA CODE.....	12-19
10. ADMINISTRATIVE HEARING OFFICER.....	12-20
TITLE 13. PROPERTY MAINTENANCE REGULATIONS	13-1
CHAPTER	
1. MISCELLANEOUS	13-1
2. SLUM CLEARANCE	13-5
3. JUNKYARDS	13-10
4. JUNKED MOTOR VEHICLES	13-13
TITLE 14. ZONING AND LAND USE CONTROL	14-1
CHAPTER	
1. MUNICIPAL PLANNING COMMISSION	14-1
2. ZONING ORDINANCE	14-2
3. FLOODPLAIN ZONING REGULATIONS	14-3
4. MOBILE HOMES AND TRAILERS	14-26

	<u>PAGE</u>
TITLE 15. MOTOR VEHICLES, TRAFFIC AND PARKING	15-1
CHAPTER	
1. MISCELLANEOUS	15-1
2. EMERGENCY VEHICLES	15-10
3. SPEED LIMITS	15-12
4. TURNING MOVEMENTS	15-13
5. STOPPING AND YIELDING	15-14
6. PARKING	15-17
7. ENFORCEMENT	15-21
TITLE 16. STREETS AND SIDEWALKS, ETC.	16-1
CHAPTER	
1. MISCELLANEOUS	16-1
TITLE 17. REFUSE AND TRASH DISPOSAL	17-1
CHAPTER	
1. REFUSE	17-1
TITLE 18. WATER AND SEWERS	18-1
CHAPTER	
1. SEWAGE	18-1
2. SEWER USE REGULATIONS	18-4
3. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.	18-78
4. WATER AND SEWER SYSTEM ADMINISTRATION	18-91
5. DROUGHT MANAGEMENT	18-92
6. GAS, WATER AND WASTEWATER PLANTS	18-98
TITLE 19. ELECTRICITY AND GAS	19-1
CHAPTER	
1. ELECTRICITY	19-1
TITLE 20. MISCELLANEOUS	20-1
1. INFLATABLES	20-1
CERTIFICATE OF AUTHENTICITY	CERT-1

APPENDIX

- A. PLAN OF OPERATION FOR THE OCCUPATIONAL
SAFETY AND HEALTH PROGRAM FOR THE
EMPLOYEES OF THE CITY OF RIPLEY A-1

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER-TREASURER.
4. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

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

1-101. Time and place of regular meetings. The mayor and aldermen shall hold regular monthly meetings at such places and times that the board may determine. (1994 Code, § 1-101, modified)

¹Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Elections: §§ 4 and 5.

Meetings: § 8.

Oath: § 4.

Powers: §§ 16 and 16-A.

Qualifications: § 8.

Quorum: § 8.

Removal from office: § 8.

Salary: § 7.

Vacancies in office: § 8.

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

- (1) Call to order by the mayor;
- (2) Roll call by the recorder;
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction;
- (4) Communications from the mayor;
- (5) Reports from committees, aldermen, and other officers;
- (6) Old business;
- (7) New business; and
- (8) Adjournment. (1994 Code, § 1-102, modified)

1-103. General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order*, current edition, shall govern the transaction of business by and before the board of mayor and aldermen at its meetings in all cases to which they are applicable and in which they are not inconsistent with provisions of the charter or this code. At the first regular meeting during a term of the board of mayor and aldermen, a parliamentarian may be appointed by the mayor, if one is available, to resolve all issues of procedure. All members of the board of mayor and aldermen shall acquaint themselves with the rules of order. (1994 Code, § 1-103, modified)

CHAPTER 2

MAYOR¹

SECTION

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all the affairs of the city and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1994 Code, § 1-201)

1-202. Executes city's contracts. The mayor and recorder shall execute all contracts as authorized by the mayor and aldermen. (1994 Code, § 1-202)

¹Charter references

Duties: § 9.

Powers: § 9.

Qualifications: § 9.

Salary: § 4.

Vacancies in office: § 8.

CHAPTER 3

RECORDER-TREASURER¹

SECTION

1-301. To be bonded.

1-302. To keep minutes, etc.

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

1-301. To be bonded. The recorder-treasurer shall be bonded in the sum of five thousand dollars (\$5,000.00), with surety acceptable to the mayor and aldermen, before assuming the duties of his office. (1994 Code, § 1-301)

1-302. To keep minutes, etc. The recorder-treasurer shall keep the minutes of all meetings of the mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (1994 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder-treasurer shall perform all administrative duties for the mayor and aldermen and for the city which are not assigned by the charter or this code to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1994 Code, § 1-303)

¹Charter references

Duties: §§ 7, 12 and 13.

Oath: § 7.

Salary: § 7.

CHAPTER 4

CODE OF ETHICS¹

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

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

Campaign finance - *Tennessee Code Annotated*, title 2, chapter 10.

Conflict of interests - *Tennessee Code Annotated*, §§ 6-54-107, 108; 12-4-101, 102.

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

Consulting fee prohibition for elected municipal officials - *Tennessee Code Annotated*, §§ 2-10-122, 124.

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

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

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

1-401. Applicability. This chapter and the city's personnel rules and regulations, is the code of ethics for personnel of the municipality.¹ It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (1994 Code, § 1-401, modified)

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

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

(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. (1994 Code, § 1-402)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself² from voting on the measure. (1994 Code, § 1-403)

1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects

¹The Personnel Rules and Regulations for the City of Ripley, and any amendments thereto, are adopted by resolution and may be found in the recorder's office.

²Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

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. (1994 Code, § 1-404)

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

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (1994 Code, § 1-405)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (1994 Code, § 1-406)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (1994 Code, § 1-407)

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

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (1994 Code, § 1-408)

1-409. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the

performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. (1994 Code, § 1-409)

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

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

(b) The city attorney may request 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. (1994 Code, § 1-410)

1-411. Violations and penalty. 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. (1994 Code, § 1-411)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3**MUNICIPAL COURT****CHAPTER****1. COURT ADMINISTRATION.****CHAPTER 1****COURT ADMINISTRATION¹****SECTION**

3-101. Maintenance of docket.

3-102. Imposition of penalties and costs.

3-103. Disposition and report of penalties and costs.

3-104. Disturbance of proceedings.

3-101. Maintenance of docket. The city judge, or his designee, shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant.

3-102. Imposition of penalties and costs. (1) (a) In all cases, where guilt is determined by the city judge and in all cases where the imposition of costs is otherwise lawful, the city judge shall impose court costs in the amount of one hundred dollars (\$100.00).

(b) With the exception of cases filed pursuant to titles 10, 12, and 13 of this municipal code, a defendant may elect to appear before the clerk of the court prior to the scheduled court date for any offense and plead guilty to said offense, making the appropriate and required entries on the citation form. Said guilty plea shall include the collection of court costs by the clerk and payment of said court costs by the defendant. In those cases, the court costs shall be seventy five dollars (\$75.00), and said amount, in addition to fines, shall be paid to the clerk when the guilty plea is made, unless there is a payment plan entered by the court.

(c) One dollar (\$1.00) of the court costs shall be forwarded by the court clerk to the State Treasurer in accordance with *Tennessee Code Annotated*, § 16-18-304(a) to be used by the administrative office of the

¹Charter reference

City court: § 10.

courts for training and continuing education courses for municipal court judges and municipal court clerks.

(2) Electronic citation regulations and fees. (a) As used in this section, "electronic citation" (or "e-citation") means a written citation or an electronic citation prepared by a law enforcement officer on paper or on an electronic data device with the intent the citation shall be filed, electronically or otherwise, with a court having jurisdiction over the alleged offense.

(b) Pursuant to and in accordance with state statutory requirements found in *Tennessee Code Annotated*, § 55-10-207(e), each court clerk shall charge and collect an electronic citation fee of five dollars (\$5.00) for each citation which results in a conviction.

(c) Pursuant to and in accordance with state statutory requirements found in *Tennessee Code Annotated*, § 55-10-207(e)(4), the collection of this electronic citation fee shall expire five (5) years from the date on which the ordinance is adopted. (Ord. #551, March 2023)

3-103. Disposition and report of penalties and costs. All funds coming into the hands of the clerk in the form of penalties, costs, and forfeitures shall be recorded by the clerk or the clerk's designee and paid over daily to the city. At the end of each month the clerk or the clerk's designee, shall submit to the board of mayor and aldermen a report accounting for the collection of all penalties and costs assessed and collected during the subject month and to date for the current fiscal year. (Ord. #551, March 2023)

3-104. Disturbance of proceedings. It shall be an offense for any person to create a disturbance of any proceeding before the court by making loud or unusual noises, by using indecorous or profane language, or by any disruptive conduct whatsoever. Said conduct shall subject the person to removal from the proceeding, in addition to any other lawful penalty. (Ord. #551, March 2023)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. SOCIAL SECURITY.
2. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.

CHAPTER 1

SOCIAL SECURITY

SECTION

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports to be made.
- 4-106. When effective for Ripley Light and Power Company Personnel.
- 4-107. When effective for personnel generally.
- 4-108. Exclusions.
- 4-109. When effective for fee basis employees.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Ripley, Tennessee, to extend, as of the dates hereinafter set out, to the employees and officials thereof not excluded by law or this chapter and whether employed in connection with a governmental or proprietary function, the benefits of the system of Federal Old Age and Survivors Insurance as authorized by the Federal Social Security Act, and as provided by *Tennessee Code Annotated*, title 8, chapter 38. In pursuance of said policy and for that purpose the city shall take such action as may be required by applicable federal or state laws or regulations. (1994 Code, § 4-101)

4-102. Necessary agreements to be executed. The mayor of the City of Ripley, Tennessee, is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1994 Code, § 4-102)

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

and shall be paid over to the state or federal agency designated by said laws or regulations. (1994 Code, § 4-103)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions, and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1994 Code, § 4-104)

4-105. Records and reports to be made. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1994 Code, § 4-105)

4-106. When effective for Ripley Light and Power Company personnel. Effective January 1, 1952, the benefits of the system of Federal Old Age and Survivors Insurance are hereby authorized to be extended to include the services of those employees and officials of the Ripley Light and Power Company, a proprietary function of the City of Ripley, Tennessee, not excluded from said benefits by law or this chapter. (1994 Code, § 4-106)

4-107. When effective for personnel generally. Effective October 1, 1956, the benefits of the system of Federal Old Age and Survivors Insurance are hereby authorized to be extended to include the services of all employees and officials connected with all governmental and proprietary functions of the City of Ripley, Tennessee, except as set out in the preceding section and not excluded by law or this chapter. (1994 Code, § 4-107)

4-108. Exclusions. There is hereby excluded from this chapter any authority to make an agreement with respect to any position or any employee or official of the Ripley Light and Power Company authorized to be covered by a retirement system created by any other ordinance adopted on or prior to March 20, 1952.

There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or officials connected with any governmental or proprietary function of said city, except as set forth in this section, covered by a retirement system created by any other ordinance adapted on or prior to September 4, 1956. (1994 Code, § 4-108)

4-109. When effective for fee basis employees. Effective January 1, 1960, the benefits of the system of Federal Old Age and Survivors Insurance are authorized to be extended to include the employees and officials connected with all the governmental and proprietary functions of said city rendering service in positions the compensation for which is on a fee basis. (1994 Code, § 4-109)

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.

4-201. Title. This section shall be known as "The Occupational Safety and Health Program Plan" for the employees of the City of Ripley. (1994 Code, § 4-401)

4-202. Purpose. The City of Ripley, in electing to update the established program plan will 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

(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. (1994 Code, § 4-402)

4-203. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Ripley shall apply to all employees of each administrative department, commission, board, division, or other agency whether part-time or full-time, seasonal or permanent. (1994 Code, § 4-403)

4-204. Standards authorized. The occupational safety and health standards adopted by the City of Ripley 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). (1994 Code, § 4-404)

4-205. Variances from standards authorized. Upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, we 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 0800-1-2, as authorized by *Tennessee Code Annotated*, title 50. Prior to requesting such temporary variance, we will notify or serve notice to our employees, their designated representatives, or interested parties 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. (1994 Code, § 4-405)

4-206. Administration. For the purposes of this chapter, City of Ripley Recorder, 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 safety director shall develop a plan of operation¹ 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

¹The "Plan of Operation for the Occupational Safety and Health Program for the Employees of the City of Ripley" has been added to this municipal code as appendix A.

0800-01-05, as authorized by *Tennessee Code Annotated*, title 50. (1994 Code, § 4-406)

4-207. Funding the program plan. Sufficient funds for administering and staffing the program plan pursuant to this chapter shall be made available as authorized by the City of Ripley. (1994 Code, § 4-407)

TITLE 5**MUNICIPAL FINANCE AND TAXATION¹****CHAPTER**

1. MISCELLANEOUS.
2. REAL PROPERTY TAXES.
3. PRIVILEGE TAXES GENERALLY.
4. WHOLESALE BEER TAX.
5. PURCHASING.

CHAPTER 1**MISCELLANEOUS****SECTION**

5-101. Donations.

5-101. Donations. The Board of Mayor and Aldermen of the City of Ripley, Tennessee, is prohibited from making any donations to any cause from the funds of the city as long as there are any notes, bills, or other expenses outstanding, excluding bonded indebtedness, which amount exceeds the amount on deposit in the general fund of the city. (1994 Code, § 5-101)

¹Charter references
Collection of: § 20.
Delinquency penalties: § 20.
Due date: § 20.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent--penalty and interest.

5-201. When due and payable.¹ Taxes levied by the city against real property shall become due and payable to the Ripley City Recorder-Treasurer annually on the first day of October of the year for which levied. (1994 Code, § 5-201, modified)

5-202. When delinquent--penalty and interest.² 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.³ (1994 Code, § 5-202)

¹State 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.

²Charter and state law reference

Tennessee Code Annotated, § 67-5-2010(b) provides that if the county trustee collects the municipality's property taxes, a penalty of one-half of one percent (0.5%) and interest of one percent (1%) shall be added on the first day of March, following the tax due date and on the first day of each succeeding month.

³Charter and state law references

A municipality has the option of collecting delinquent property taxes any one (1) of three (3) ways:

- (1) Under the provisions of its charter for the collection of delinquent property taxes.
- (2) Under *Tennessee Code Annotated*, §§ 6-55-201 to 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.

5-301. 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 enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on in Ripley, Tennessee at the rates and in the manner prescribed by the Act. (1994 Code, § 5-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor and payment of the appropriate privilege tax. (1994 Code, § 5-302, modified)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the Wholesale Beer Tax Act, as set out in *Tennessee Code Annotated*, title 57, chapter 6.¹ (1994 Code, § 5-401)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax 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

PURCHASING

SECTION

5-501. Public advertisement and competitive bidding.

5-502. Competitive sealed proposals.

5-501. Public advertisement and competitive bidding. (1) Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of twenty-five thousand dollars (\$25,000.00), except for those purchases specifically exempted by the *Tennessee Code Annotated*, § 6-56-301, *et seq.*

(2) Supplies and materials, the total cost of which does not exceed \$1,000 may be purchased or procured directly from those firms or businesses where the city maintains accounts by the department or activity supervisor concerned so long as such purchases are within the budget limitations of the department or activity concerned.

(3) Purchases which will cost in the aggregate more than one thousand dollars (\$1,000.00), but less than twenty-five thousand dollars (\$25,000.00) shall be exempt from public advertising and/or formal competitive bidding. The purchase of such items or services, however, shall only be made after quotations from at least three (3) sources are received, if possible. The purchasing department shall permanently record the results of any such informal quotations or verify that multiple sources of similar supplies or services were unavailable. (1994 Code, § 5-501, modified)

5-502. Competitive sealed proposals. (1) Notwithstanding anything to the contrary in the municipal ordinances and/or resolutions governing purchases, the city may use competitive sealed proposals to purchase goods and services rather than competitive sealed bids when the board, acting under the restrictions and requirements of *Tennessee Code Annotated*, title 12, chapter 3, part 12, as same may hereinafter be amended, and the procurement code adopted by this section, determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city. The board must make the aforesaid determination with regard to each use of competitive sealed proposals rather than competitive sealed bids, except that in actual emergencies caused by unforeseen circumstances such as natural or human-made disasters, delays by contractors, delays in transportation, or unanticipated volume of work, purchases through competitive sealed proposals may be made without specific authorizing action of the board. A record of any emergency purchase shall be made by the person authorizing the emergency purchase, specifying the amount paid, the items and services purchased, from whom the purchase was made, and the nature of the emergency. A report of the emergency purchase purchased

through competitive sealed proposals containing all relevant information shall be made as soon as possible by the person authorizing the purchase to the board.

(2) Criteria and procedure. The following shall constitute the criteria and procedures for purchasing through competitive sealed proposals:

(a) Conditions for use. (i) Competitive sealed proposals may be used only after the municipality has documented the reasons why competitive sealed bids are not practicable or not advantageous to the municipality, and

(ii) Competitive sealed proposals may be used only when qualifications, experience, or competence are more important than price in making the purchase and:

(A) When there is more than one (1) solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or

(B) When there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one (1) or more solutions.

(b) Public notice. Adequate public notice of the request for competitive sealed proposals shall be given in the same manner provided by applicable law for competitive sealed bids.

(c) Request/evaluation factors. The request for competitive sealed proposals must state the relative importance of price and other evaluation factors. Among other things, the request shall include the desired specifications (which may be expressed in the context of the result sought to be obtained); the qualifications of each proposer; warranties, time frame for performance, the contract; and, if applicable, the bond or other security that the successful proposer will be required to furnish. The request for competitive sealed proposals shall provide that, after receipt by the city of a proposal, interviews, presentations, demonstrations, and discussions, either oral or in writing or both, may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with one (1) or more responsible proposers who submit proposals determined by the purchasing agent to be reasonably susceptible of being selected. The request shall set forth the date, time, and place for submission of proposals.

(d) Opening of proposals. Competitive sealed proposals must be opened in a manner that avoids disclosure of the contents to competing proposers during the negotiation. The proposals and all related materials must be open for public inspection after, but not before, the intent to award the contract to a particular proposer is announced.

(e) Discussions with responsive proposers and revisions to proposals. After receipt by the city of a proposal, interviews, presentations, demonstrations, and discussions, either oral or in writing

or both, may be conducted for clarification to assure full understanding of, and responsiveness to, the solicitation requirements with one (1) or more responsible proposers who submit proposals determined by the purchasing agent to be reasonably susceptible of being selected. The proposers must be accorded fair and equal treatment with respect to an opportunity for an interview, presentation, demonstration, discussion, or revision of proposals, both as to the particular goods or services to be furnished and the price thereof. In order to permit the city to obtain the best offers of proposers, revisions may be permitted after submission and before the intent to award to a particular proposer is announced. In conducting interviews, presentations, demonstrations, or discussions, the purchasing agent and other municipal personnel shall not disclose to a proposer during the negotiations information derived from proposals submitted by competing proposers. Nothing contained herein shall preclude the city from conducting conferences or otherwise communicating with all parties who may be interested in responding to a proposal prior to the time that proposals are to be received.

(f) Best and final offers. If interviews, presentations, demonstrations, or discussions are conducted, the purchasing agent shall issue a written request for best and final offers. The request shall set forth the date, time, and place for submission of best and final offers. Best and final offers shall be requested only once, unless the purchasing agent makes a written determination that it is advantageous to the city to conduct further discussion or clarify the city's requirements. The request for best and final offers shall inform proposers that, if they do not submit a notice of withdrawal or a best and final offer, their latest written offer will be construed as their best and final offer. Nothing contained herein shall preclude the board from rejecting all proposals and thereafter requesting new proposals.

(g) Award. The award shall be made to the responsible proposer whose proposal the board determines is the most advantageous to the city, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation. The purchasing agent shall place in the contract file a statement containing the basis on which the award was made.

(h) Protest. In the event that any proposer to a request for competitive sealed proposals is aggrieved by the decision of the city, such aggrieved proposer may protest the intended award to another proposer if the protest is filed within seven (7) days after the intended award is announced. The protest must be filed with the board in care of the city administrator of the city and shall be promptly decided by the board. The purchase shall not be finalized and work may not commence until the board has reviewed and made a decision on the protest.

(i) No conflict with other laws. Nothing contained herein is intended to change the authority of the city with respect to contracting for professional services in accordance with the applicable laws of the State of Tennessee.

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST

SECTION

6-101. Police officers subject to chief's orders.

6-102. Police officers to preserve law and order, etc.

6-103. Police officers to comply with manual, policies and procedures.

6-104. When police officers to make arrests.

6-105. Police department records.

6-101. Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1994 Code, § 6-101)

6-102. Police officers to preserve law and order, etc. Police officers shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Police officers shall also promptly serve any legal process issued by the city court. (1994 Code, § 6-102)

6-103. Police officers to comply with manual, policies and procedures. All police officers shall comply with the requirements of the city-adopted manual, policies, and procedures, and orders issued by the chief of police.

6-104. When police officers 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 police officer in the following cases:

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

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

¹Municipal code reference

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1994 Code, § 6-104)

6-105. 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 their jurisdictional limits;

(2) All arrests made by police officers; and

(3) All police investigations made, fire calls answered, and other miscellaneous activities of the police department. (1994 Code, § 6-107, modified) § 6-203)

TITLE 7**FIRE PROTECTION AND FIREWORKS¹****CHAPTER**

1. FIRE DISTRICT.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE FIRE LIMITS.
5. FIREWORKS.
6. FIRE ALARMS.

CHAPTER 1**FIRE DISTRICT****SECTION**

- 7-101. Fire limits described.
- 7-102. Open fires regulated.
- 7-103. Permit required for grass fires.
- 7-104. Application for permit.
- 7-105. Inspection of premises; issuance or denial of permit.
- 7-106. Trash fires, etc.
- 7-107. Fires at gin and box factories.

7-101. Fire limits described. The fire limits shall include all property located within the corporate limits, any areas within the county for which the Ripley Fire Department is designated as primary fire service, any areas subject to local, regional, statewide, or other mutual or reciprocal aid agreements, and any areas where aid is authorized by law.

7-102. Open fires regulated. No person shall make or cause to be made or set any fire of any kind in the open within the city unless such fire be and remain under the direct and constant supervision of some competent person; nor shall any person making or setting any fire allow such fire to become so large or so intense that it is not within his complete control; nor shall any person allow any fire to injure or damage any structure, ornamental shrubbery, tree, or hedge. (1994 Code, § 7-102)

¹Municipal code reference

Building, utility and residential codes: title 12.

7-103. Permit required for grass fires. No person shall set or cause to be set or burn or cause to be burned, at any time, any fire commonly known as a grass fire for the purpose of burning off vegetation, leaves, grass, or weeds, on any lot or parcel of ground within the city, unless he shall first obtain from the fire chief, or his duly authorized representative, a permit for such fire. The permit shall be applied for at the fire station in the City of Ripley. (1994 Code, § 7-103)

7-104. Application for permit. Any person making application to the fire department for a grass fire permit, shall set forth the area to be burned, the vegetation contained thereon, the protection that will be taken against said fire, and the person under whose direction and constant supervision the fire will remain. (1994 Code, § 7-104)

7-105. Inspection of premises; issuance or denial of permit. Upon application for a grass fire permit, the fire chief or his representative shall cause an inspection of the premises to be made. If the inspection reveals that such fire can be permitted without unreasonable hazard to other property, the permit will be issued; otherwise, it will be denied. (1994 Code, § 7-105)

7-106. Trash fires, etc. No person shall make any bonfire or burn any trash, rubbish, refuse, grass, or leaves between the hours of sunset and sunrise or at any time within twenty-five feet (25') of any building.

The foregoing provisions shall not apply to the burning of trash, rubbish, refuse, grass, weeds, or leaves between the hours of sunrise and sunset, when the fire is not within twenty-five feet (25') of any building, and such fire is confined within a fireproof container constructed of heavy wire or sheet metal with the openings in the mesh not greater than one (1) square inch, or when such fire, being more than twenty-five feet (25') from any building, is for the purpose of burning cut grass, weeds, rubbish, or trash, when the grass, weeds, rubbish, or trash shall first have been placed in suitable piles, said piles not to be so large or said fire not to be so intense as to endanger any building or property or any growing trees or shrubbery.

No trash or other matter giving off foul or unwholesome odors, shall be burned at any time or at any place. (1994 Code, § 7-106)

7-107. Fires at gin and box factories. Due to the fire hazards associated with the operation of gin and box factories and the cost of fighting fires, the cost of fires at gin and box factories shall be borne by the place having the fire after one (1) fire call per calendar year. The second fire call and all calls thereafter shall be charged to the gin or box factory requiring such calls. Such places shall be charged what it cost the fire department to make each call after the first one.

The cost of fighting the second and subsequent fires shall become a lien upon said property and shall be collectable and enforceable as property taxes upon the property. (1994 Code, § 7-107)

CHAPTER 2

FIRE CODE¹

SECTION

- 7-201. Fire code adopted.
- 7-202. Enforcement.
- 7-203. Definition of "municipality."
- 7-204. Storage of explosives, flammable liquids, etc.
- 7-205. Gasoline trucks.
- 7-206. Modifications.
- 7-207. Violations and penalty.

7-201. Fire code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the *International Fire Code*,² 2018 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the fire code. Said fire code shall be controlling within the corporate limits.

7-202. Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

7-203. 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 Ripley. (1994 Code, § 7-203)

7-204. Gasoline trucks. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline.

¹Municipal code reference

Building, utility and residential codes: title 12.

²Copies of this code (and any amendments) are available from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

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

7-206. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

7-207. Violations and penalty. The application of a penalty under the general penalty clause for the municipal code shall not be held to prevent the enforced removal of prohibited conditions. (modified)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

- 7-301. Establishment, equipment and membership.
- 7-302. Objectives.
- 7-303. Organization, rules and regulations.
- 7-304. Records and reports.
- 7-305. Employment and wages.
- 7-306. Chief responsible for training.
- 7-307. Chief to be assistant to state officer.

7-301. Establishment, equipment and membership. There is hereby established a fire department to be supported and equipped from appropriations by the mayor and aldermen. All apparatus, equipment and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be composed of a chief and such number of physically-fit subordinate officers and firefighters as the mayor and aldermen shall appoint. (1994 Code, § 7-301)

7-302. Objectives. The fire department shall have as its objectives:

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable.
- (7) To facilitate such mutual aid, or reciprocal aid, agreements as approved by the board of mayor and aldermen. (1994 Code, § 7-302, modified)

7-303. Organization, rules and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1994 Code, § 7-303)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel

¹Municipal code reference

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

and work of the department. He shall submit such written reports on those matters to the mayor once each month, and at the end of the year a detailed annual report shall be made. (1994 Code, § 7-304)

7-305. Employment and wages. The board of mayor and aldermen shall fix the salary and wages of all officers and employees of the fire department. (1994 Code, § 7-305, modified)

7-306. Chief responsible for training. The chief of the fire department shall be fully responsible for the training of the firefighters, and the minimum training required shall be that prescribed by the State of Tennessee and the fire chief. (1994 Code, § 7-306, modified)

7-307. Chief to be assistant to state officer. Pursuant to requirements of *Tennessee Code Annotated*, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by *Tennessee Code Annotated*, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1994 Code, § 7-307)

CHAPTER 4

FIRE SERVICE OUTSIDE FIRE LIMITS

SECTION

7-401. Equipment and personnel to be used only within fire limits.

7-401. Equipment and personnel to be used only within fire limits. Equipment and personnel to be used only within fire limits. (modified)

CHAPTER 5

FIREWORKS

SECTION

7-501. Definition.

7-502. Manufacture, sale and discharge of fireworks.

7-503. Bond for fireworks display required.

7-504. Disposal of unfired fireworks.

7-505. Exceptions.

7-506. Seizure of fireworks.

7-501. Definition. "Fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, Daygo bombs, sparklers, or other devices of like construction and any devices containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except that the term "fireworks" shall not include auto flares, paper caps containing not in excess of an average of twenty-five hundredths of a grain of explosive content per cap, and toy pistols, toy canes, toy guns or other devices for use of such caps, the sale and use of which shall be permitted at all times. (1994 Code, § 7-501)

7-502. Manufacture, sale and discharge of fireworks. (1) The manufacture of fireworks is prohibited within the city.

(2) Except as hereinafter provided it shall be unlawful for any person to store, to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided that the recorder shall have power to grant permits for supervised public displays of fireworks by the city, fair associations, amusement parks, and other organizations. Every such display shall be handled by a competent operator approved by the chief of the fire department of the city, and shall be of such a character, and be so located, discharged or fired as in the opinion of the chief of the fire department, after proper inspection, shall not be hazardous to property or dangerous to any person.

(3) Applications for permits shall be made in writing in advance of the date of the display. After such privilege shall have been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. (1994 Code, § 7-502)

7-503. Bond for fireworks display required. The permittee shall furnish a bond in an amount deemed adequate by the recorder for the payment of all damages, which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, his agents, employees or subcontractors. (1994 Code, § 7-503)

7-504. Disposal of unfired fireworks. Any fireworks that remain unfired after the display is concluded shall be immediately disposed of in a way safe for the particular type of fireworks remaining. (1994 Code, § 7-504)

7-505. Exceptions. Nothing in this chapter shall be construed to prohibit any resident wholesaler, dealer, or jobber to sell at wholesale such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped directly out of the city; or the use of fireworks by railroads or other transportation agencies for signal purposes or illumination, or the sale or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations. (1994 Code, § 7-505)

7-506. Seizure of fireworks. Police officers and firefighters shall seize, take, remove, or cause to be removed at the expense of the owner all stocks of fireworks offered or exposed for sale, stored, or held in violation of this chapter. (1994 Code, § 7-506)

CHAPTER 6**FIRE ALARMS****SECTION**

7-601. Penalty for false fire alarms.

7-601. Penalty for false fire alarms. Any individual, business, industry, or other entity which owns or possesses property upon which a fire alarm is installed, shall maintain the alarm system in good repair to prevent against false soundings resulting from intentional or negligent failure to maintain, which are distinguished from intentional false soundings. (modified)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

- 8-101. Definitions.
- 8-102. Scope of chapter.
- 8-103. State laws to be complied with.
- 8-104. Alcoholic beverages subject to regulation.
- 8-105. Specific rules governing retail package stores.
- 8-106. Specific rules governing on-premises consumption.
- 8-107. Number of retail licenses to be held by retailer.

8-101. Definitions. "Alcoholic beverages" shall mean alcohol, liquor, spirits, wine, and every liquid containing alcohol, liquor, spirits, and wine capable of being consumed by a human being, other than patented medicine, beer, or wine, where the latter two (2) contain an alcoholic content defined pursuant to *Tennessee Code Annotated*, § 57-5-101, as from time to time may be amended. (1994 Code, § 8-101, modified)

8-102. Scope of chapter. This chapter shall govern the sale of intoxicating liquor through retail package stores and consumption on premises (liquor-by-the-drink) of alcoholic beverages in the City of Ripley. This chapter is to be read and interpreted in line with *Tennessee Code Annotated*, title 57 as well as the rules and regulations of the Tennessee Alcoholic Beverage Commission. If any provision of this chapter is found to exceed or be contrary to the authority provided in the same, said ordinance provision will be superseded.

Nothing in this chapter regulates the distribution, possession, receipt of, sale, storage, tax upon, or transportation upon any beverage of alcoholic content defined pursuant to *Tennessee Code Annotated*, § 57-5-101, as from time to time

¹State law reference

Tennessee Code Annotated, title 57.

may be amended, and no ordinance related thereto is modified by this chapter. (1994 Code, § 8-102, modified)

8-103. State laws to be complied with. No association, corporation, firm, partnership, or person shall engage in the wholesale, retail or on-premises-consumption ("liquor by the drink") liquor business unless all the necessary state licenses and permits have been obtained. (1994 Code, § 8-103)

8-104. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages within the corporate limits of the City of Ripley except as provided by *Tennessee Code Annotated*, title 57. (1994 Code, § 8-104)

8-105. Specific rules governing retail package stores.

(1) Application for certificate of good moral character. Before any character certificate, as required by *Tennessee Code Annotated*, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen, an application in writing shall be filed with the city recorder on a form to be provided by the City of Ripley, giving, inter alia, the following information:

- (a) Name, age and address of applicant.
- (b) Number of years residence in Lauderdale County.
- (c) Occupation or business and length of time engaged in such occupation or business.
- (d) Whether or not the applicant has been convicted of a violation of any state or federal law or of the violation of this code or any city ordinance, and the details of any such conviction.
- (e) If employed, the name and address of 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 management of the store.
- (i) If the applicant is a partnership, the name, age and address of each partner, and his or her occupation, business or employer. If the applicant is a corporation, the name, age and address of the stockholders, and their degrees of ownership of stock in the corporation.

Each application shall be accompanied by a non-refundable investigation fee of two hundred fifty dollars (\$250.00).

An application for certificate of compliance must be submitted by all owners, partners, stockholders and directors of the store, whether same is a firm, partnership or corporation and the failure to reveal the financial interest of any person or corporation shall be grounds for the denial of the certificate of compliance and/or the revocation of the certificate of compliance. No applicant

shall apply individually, as a member of a partnership, or as a stockholder, officer or director on more than one (1) application, or hold any interest in more than one (1) permit at the same time.

A copy of each application form, questionnaire, partnership agreements or any other form of material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this same application, shall be attached to the city application form and shall become a permanent part thereof as if copied verbatim therein. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. All applications submitted in accordance with this chapter shall be filed with the city recorder at least ten (10) days prior to a regular or special called meeting.

(2) Applicant to agree to comply with laws. The applicant for a certificate of good moral character shall agree in writing to comply with the state and federal laws and ordinances of the city and rules and regulations of the Alcoholic Beverage Commission of the state for sale of alcoholic beverages.

(3) Applicant to appear before board of mayor and aldermen; duty to give information. An applicant for a certificate of good moral character may be required to appear in person before the board of mayor and aldermen for such reasonable examination as may be desired by the board. Before the issuance of any character certificate or a renewal of the same, an applicant may be required to tender requested documentation for review and/or inspection by the board of mayor and aldermen.

(4) Action on application. Every application for a certificate of good moral character shall be referred to the chief of police for investigation and to the city recorder for review, who shall submit their findings to the board of mayor and aldermen.

The mayor or a majority of the board of mayor and aldermen may, in its sole discretion, issue a certificate of moral character to any qualified applicant.

(5) Only one establishment to be operated by retailer. No retailer shall operate, directly or indirectly, more than one (1) place of business for the sale of alcoholic beverages in the city. 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.

(6) Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose, (which include B-2 and B-5) but in no event shall any establishment be located within three hundred feet (300') of a school, residence, church, hospital, day care, public park, or other place of public gathering, measured in a straight line between the nearest point on the property line upon which sits the building from which the alcoholic beverages will be sold, stored or distributed, and the nearest point on the property line of the school, residence, church, hospital, day

care, public park, or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, hospital, day care, public park, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period.

(7) Limitation on number of retailers. No more than three (3) retail licenses for the sale of alcoholic beverages shall be issued by the City of Ripley under this chapter.

(8) Radios, amusement devices and seating facilities prohibited in retail establishments. No radios, pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail establishment. No seating facilities shall be provided for persons other than employees.

(9) Inspection fee. The City of Ripley hereby imposes an inspection fee in the maximum amount allowed by *Tennessee Code Annotated*, § 57-3-501, as from time to time may be amended, on all licensed retailers of alcoholic beverages located within the corporate limits of the city. Said inspection fee shall be collected and administered in line with *Tennessee Code Annotated*, §§ 57-3-502 and 57-3-503, as from time to time may be amended.

(10) Violations. The license holders are responsible at all times for the conduct of their business and all are at all times directly responsible for the conduct of all employees. Any violation of this chapter or of Tennessee or federal law which regulates intoxicating liquors shall constitute a civil offense and shall, upon conviction, be punishable by a penalty as enumerated under the general penalty provisions of this code as well as state and federal law.

(11) Selection of qualified applicants. Whenever there has been determined to be more qualified applicants than licenses available the City of Ripley shall give priority in issuing licenses based on the time of filing of applications.

(12) Hours and times of operation. The hours and dates of operation for retail licensees are controlled by *Tennessee Code Annotated*, § 57-3-406, as from time to time may be amended.

(13) Regulations on premises. All retail establishments must comply with the City of Ripley building and zoning codes. (1994 Code, § 8-105, modified)

8-106. Specific rules governing on-premises consumption.

(1) Consumption of alcoholic beverages on premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of the City of Ripley, Tennessee. It is the intent of the mayor and board of alderman that the said *Tennessee Code Annotated*, title 57, chapter 4,

inclusive, shall be effective in Ripley, Tennessee, the same as if said code sections were copied herein verbatim.

(2) Restriction on the hours for the sale of intoxicating liquors. There shall not be any intoxicating liquor sold on any Sunday between the hours of 3:00 A.M. and 12:00 P.M. All other times and dates of sales shall be as referenced in *Tennessee Code Annotated*, § 57-4-203, as from time to time may be amended.

(3) Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, as from time to time may be amended, there is hereby levied a privilege tax (in the same amount levied by *Tennessee Code Annotated*, title 57, chapter 4, § 301, for the City of Ripley General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the City of Ripley alcoholic beverages for consumption on the premises where sold.

(4) Annual privilege tax to be paid to the city recorder. Any person, firm, corporation, joint stock company, syndicate or association exercising the privilege of selling alcoholic beverages for consumption on the premises in the City of Ripley shall remit annually to the city recorder the approximate tax described in *Tennessee Code Annotated*, § 57-4-301, as from time to time may be amended. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the approximate tax when due shall be subject to the penalty provided by law.

(5) Club application. Any club, as defined in *Tennessee Code Annotated*, title 57 that seeks to obtain a license for on-premises consumption of liquor must make an application to and obtain a permit from the City of Ripley. This application shall be made on such form as the city shall prescribe. Each applicant shall be of good moral character and certify that he has read and is familiar with the provisions of this chapter. Such application shall be in writing and must be filed with the city recorder on a form to be provided by the city. Each application shall be accompanied by a non-refundable investigation fee of four hundred and fifty dollars (\$450.00). A copy of each application form, questionnaire, partnership agreement or any other form of material required to be filed with the State of Tennessee Alcoholic Beverage Commission in connection with this same application, shall be attached to the city application form and shall become a permanent part thereof as if copied verbatim therein. The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. All applications submitted in accordance with this chapter shall be filed with the city recorder at least ten (10) days prior to a regular or special called meeting.

(6) Signage requirements. All establishments authorized under this

section must comply with the City of Ripley zoning code. (1994 Code, § 8-106, modified)

8-107. Number of retail licenses to be held by retailer.¹ No retail licensee shall, directly or indirectly, hold more than one (1) retail license. In no event shall a retail licensee, directly or indirectly, hold more than fifty percent (50%) of the licenses authorized for issuance in such municipality or county.

¹State law reference

Tennessee Code Annotated, § 57-3-406.

CHAPTER 2

BEER¹

SECTION

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

8-201. Beer board established. There is hereby established a beer board to be composed of the board of mayor and aldermen, with the mayor acting as chairman. All members of the beer board shall serve without compensation. (modified)

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

8-203. Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; names of the board members present and absent; names of the

¹State law reference

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

members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board.

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

8-205. Powers and duties of the beer board.¹ The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter.

8-206. "Beer" defined. The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101.

8-207. Permit required for engaging in beer business.² It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the City of Ripley. Each applicant must be a person of good moral character and he must certify that he has read and is familiar with the provisions of this chapter.

8-208. Privilege tax.³ There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the City of Ripley, Tennessee. At the time a new permit is issued to any business subject

¹State law reference
Tennessee Code Annotated, § 57-5-106.

²State law reference
Tennessee Code Annotated, § 57-5-103.

³State law reference
Tennessee Code Annotated, § 57-5-104(b).

to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date.

8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off premises consumption. A single permit may be issued for on premise and off premise consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.¹

8-210. Beer permits. Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the city at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased.

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, hospitals, day cares, public parks, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church, hospital, day care, public park, or other place of public

¹State law reference

Tennessee Code Annotated, § 57-5-301(a) provides that neither beer permit holders nor persons employed by them may have been "convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude" within the previous ten (10) years. Under *Tennessee Code Annotated*, § 57-5-301(b), violations are punishable under state law as a Class A misdemeanor. Under *Tennessee Code Annotated*, § 16-18-302, city courts may only enforce local ordinances that mirror, substantially duplicate or incorporate by reference Class C misdemeanors. City courts are thus prohibited from enforcing ordinances making violations of *Tennessee Code Annotated*, § 57-5-301(a) a local offense.

gathering. The distances shall be measured in a straight line from the nearest point on the property line upon which sits the building from which the beer will be manufactured, stored or sold to the nearest point on the property line of the school, residence, church, hospital, day care, public park, or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church, hospital, day care, public park, or other place of public gathering if a valid permit had been issued to any business on that same location unless beer is not sold, distributed or manufactured at that location during any continuous six (6) month period. (modified)

8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:

- (1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.
- (2) Make or allow the sale of beer on Sunday between the hours of 3:00 A.M. and 12:00 P.M. All other times and dates of sales shall be as referenced in *Tennessee Code Annotated*, § 57-4-203, as from time to time may be amended;
- (3) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (4) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (5) Allow drunk persons to loiter about his premises.
- (6) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.
- (7) Fail to provide and maintain separate sanitary toilet facilities for men and women.
- (8) Beer permit holders without a liquor license shall not allow brown bagging of liquor on their premises. (modified)

8-213. Revocation or suspension of beer permits. The beer board shall have the power to revoke or suspend any beer permit issued under the provisions of this chapter when the holder thereof is guilty of making a false statement or misrepresentation in his application or of violating any of the provisions of this chapter. However, no beer permit shall be revoked or suspended until a public hearing is held by the board after reasonable notice to all the known parties in interest. Revocation or suspension proceedings may be initiated by the police chief or by any member of the beer board.

Pursuant to *Tennessee Code Annotated*, § 57-5-608, the beer board shall not revoke or suspend the permit of a "responsible vendor" qualified under the requirements of *Tennessee Code Annotated*, § 57-5-606 for a clerk's illegal sale of beer to a minor if the clerk is properly certified and has attended annual meetings since the clerk's original certification, unless the vendor's status as a

certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under *Tennessee Code Annotated*, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years.

8-214. Civil penalty in lieu of revocation or suspension.

(1) Definition. "Responsible vendor" means a person, corporation or other entity that has been issued a permit to sell beer for off-premises consumption and has received certification by the Tennessee Alcoholic Beverage Commission under the "Tennessee Responsible Vendor Act of 2006," *Tennessee Code Annotated*, § 57-5-601, *et seq.*

(2) Penalty, revocation or suspension.¹ The beer board may, at the time it imposes a revocation or suspension, offer a permit holder that is not a responsible vendor the alternative of paying a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) for each offense of making or permitting to be made any sales to minors, or a civil penalty not to exceed one thousand dollars (\$1,000.00) for any other offense.

The beer board may impose on a responsible vendor a civil penalty not to exceed one thousand dollars (\$1,000.00) for each offense of making or permitting to be made any sales to minors or for any other offense.

If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn.

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city/town may impose.

8-215. Loss of clerk's certification for sale to minor.² If the beer board determines that a clerk of an off-premises beer permit holder certified

¹State law reference
Tennessee Code Annotated, § 57-5-108(2).

²State law reference
Tennessee Code Annotated, § 57-5-607.

under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. YARD SALES.
3. ADULT-ORIENTED ESTABLISHMENTS.
4. MOBILE FOOD PREPARATION VEHICLES.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.²

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.

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

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

¹Municipal code references

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

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-401(5).

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

(3) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the city, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(4) "Transient vendor"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

9-102. Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.

¹State law references

Tennessee Code Annotated, § 62-30-101, *et seq.* contains permit requirements for "transitory vendors."

The definition of "transient vendors" is taken from *Tennessee Code Annotated*, § 62-30-101(3). Note also that *Tennessee Code Annotated*, § 67-4-710(a)(2) prescribes that transient vendors shall pay a tax of \$50.00 for each 14 day period in each county and/or municipality in which such vendors sell or offer to sell merchandise for which they are issued a business license, but that they are not liable for the gross receipts portion of the tax provided for in *Tennessee Code Annotated*, § 67-4-709.

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor or solicitor, and no solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter.

9-104. Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the recorder by each applicant for a permit as a peddler, transient vendor or solicitor, or as a solicitor for subscriptions:

(a) The complete name and permanent address of the business or organization the applicant represents.

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

(c) The dates for which the applicant intends to do business or make solicitations.

(d) The names and permanent addresses of each person who will make sales or solicitations within the city.

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

(f) Tennessee state sales tax number, if applicable.

(2) Permit fee. Each applicant for a permit as a peddler, transient vendor or solicitor shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

(3) Permit issued. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the recorder, the recorder shall submit to the chief of police a copy of the application form and the permit.

9-105. Restrictions on peddlers and solicitors. No peddler, solicitor, or solicitor for subscriptions shall:

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

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

(3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise.

(5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.

9-106. Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.

9-107. Display of permit. Each peddler, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.

9-108. Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the recorder for any of the following causes:

(a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or

(b) Any violation of this chapter.

(2) Suspension or revocation by the board of mayor and aldermen. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder 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.

9-109. Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. (modified)

CHAPTER 2

YARD SALES

SECTION

- 9-201. Definitions.
- 9-202. Property permitted to be sold.
- 9-203. Permit required.
- 9-204. Permit procedure.
- 9-205. Permit conditions.
- 9-206. Hours of operation.
- 9-207. Exceptions.
- 9-208. Display of sale property.
- 9-209. Display of permit.
- 9-210. Persons/sales exempted from chapter.

9-201. Definitions. For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) "Personal property" shall mean property which is owned, utilized, and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(2) "Yard sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance,¹ for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold. (Ord. #541, Jan. 2021)

9-202. Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property. (Ord. #541, Jan. 2021)

¹Municipal code reference

Zoning ordinance: title 14, chapter 2.

9-203. Permit required. No yard sale shall be conducted unless and until the individuals desiring to conduct such sale obtain a permit therefor from the city recorder. Members of more than one (1) residence may join in obtaining a permit for a yard sale to be conducted at the residence of one of them. Permits may be obtained for any nonresidential location only by the property owner. (Ord. #541, Jan. 2021)

9-204. Permit procedure. (1) Application. The applicant or applicants for a yard sale permit shall file a written application with the city recorder at least three (3) days in advance of the proposed sale setting forth the following information:

- (a) Full name and address of applicant or applicants.
- (b) The location at which the proposed yard sale is to be conducted.
- (c) The date or dates upon which the sale shall be conducted.
- (d) The date or dates of any other yard sales by the same applicant or applicants within the current calendar year.
- (e) A statement that the personal property to be sold was owned by the applicant as his own personal property and was neither acquired nor cosigned for the purpose of resale.
- (f) A statement that the applicant willfully comply with this and all other applicable ordinances and laws.

(2) Permit fee. No fee is charged for the issuance of a permit.

(3) Issuance of permit. Upon the applicant complying with the terms of this chapter, the city recorder shall issue a permit. (Ord. #541, Jan. 2021)

9-205. Permit conditions. The permit shall set forth and restrict the time and location of such yard sale. No more than three (3) such permits may be issued to one (1) residential location, residence, and/or family household during any calendar year. If members of more than one (1) residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences. No more than six (6) permits may be issued for any nonresidential location during any calendar year. (Ord. #541, Jan. 2021)

9-206. Hours of operation. Each yard sale shall be limited to the hours of 7:00 A.M. to 6:00 P.M. and limited to no more than two (2) consecutive days. (Ord. #541, Jan. 2021)

9-207. Exceptions. (1) If sale not held because of inclement weather. If a yard sale is not held on the date(s) for which the permit is issued or is terminated during the first day of the sale because of inclement weather conditions, and information to this effect is submitted, the city recorder shall, upon request, issue another permit to the applicant for a yard sale to be conducted at the same location within thirty (30) days from the date when the

first sale was to be held. This shall not be calculated as an additional sale for the purpose of determining the total sales conducted, and no additional permit fee is required.

(2) Change of ownership - fourth sale. A fourth yard sale shall be permitted at a residential location in a calendar year if satisfactory proof of a bona fide change in ownership of the real property is first presented to the city recorder. (Ord. #541, Jan. 2021)

9-208. Display of sale property. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side, or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard. (Ord. #541, Jan. 2021)

9-209. Display of permit. Any permit issued for a yard sale shall be in the possession of the permittee and presented to a police officer or code enforcement officer upon demand. (Ord. #541, Jan. 2021)

9-210. Persons/sales exempted from chapter. The provisions of this chapter shall not apply to or affect the following:

(1) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(2) Persons acting in accordance with their powers and duties as public officials.

(3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the City of Ripley, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor, which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances. (Ord. #541, Jan. 2021)

CHAPTER 3

ADULT-ORIENTED ESTABLISHMENTS¹

SECTION

- 9-301. Purpose.
- 9-302. Definitions.
- 9-303. License required.
- 9-304. Application for license.
- 9-305. Standards for issuance of license.
- 9-306. Permit required.
- 9-307. Application for permit.
- 9-308. Standards for issuance of permit.
- 9-309. Fees.
- 9-310. Display of license or permit.
- 9-311. Renewal of license or permit.
- 9-312. Revocation of license or permit.
- 9-313. Hours of operation.
- 9-314. Responsibilities of the operator.
- 9-315. Prohibitions and unlawful sexual acts.
- 9-316. Violations and penalty.

9-301. Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the city. It is not the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

9-302. 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

¹State law references

Tennessee Code Annotated, §§ 7-51-1101–7-51-1122 and
7-51-1401–7-51-1407

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 portion of its stock in trade ("substantial portion" meaning over twenty percent (20%) of floor area, or over twenty percent (20%) of inventory by units or value, or over twenty percent (20%) of revenues, or an inventory of two hundred (200) or more units) in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of adult entertainment, as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

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

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

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

Adult cabarets shall include commercial establishments which feature entertainment of an erotic nature including exotic dancers, table dancers,

private dancers, strippers, male or female impersonators, or similar entertainers.

(6) "Board of Mayor and Aldermen" means the Board of Mayor and Aldermen of the City of Ripley, 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 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.

9-303. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Ripley without first obtaining a license to operate issued by the City of Ripley.

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

(6) No license may be issued for any location unless the premises is lawfully zoned for adult-oriented establishments and unless all requirements of the zoning ordinance are complied with.

9-304. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the Police Chief of the City of Ripley. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the recorder and to the applicant.

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

(a) Name and addresses, including all aliases.

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

(c) All residential addresses of the applicant(s) for the past three (3) years.

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

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

(f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.

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

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

(i) The address of the adult-oriented establishment to be operated by the applicant(s).

(j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

(k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.

(l) The length of time each applicant has been a resident of the City of Ripley, 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 Ripley Police Department, the police chief shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the police chief 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 board of mayor and aldermen.

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

9-305. 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 § 9-303 shall be at least eighteen (18) years of age.
 - (ii) No officer, director or stockholder required to be named under § 9-303 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 Ripley Police Department has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the police chief no later than twenty (20) days after the date of the application.

9-306. 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 police chief.

9-307. Application for permit. (1) Any person desiring to secure an permit as an employee or entertainer shall make application to the police chief. The application shall be filed in triplicate with and dated by the police chief. A copy of the application shall be distributed promptly by the police chief to the city recorder and to the applicant.

(2) The application for a permit shall be upon a form provided by the police chief. 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 therefor, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

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

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

(i) The length of time the applicant has been a resident of the City of Ripley, 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 Ripley Police Department, the police chief 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 police chief 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 police chief shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter before the board of mayor and aldermen at which time the applicant may present evidence bearing upon the question.

(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 police chief.

9-308. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

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

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

(2) No permit shall be issued until the Ripley Police Department has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the police chief not later than twenty (20) days after the date of the application.

9-309. Fees. (1) A license fee of five hundred dollars (\$500.00) shall be submitted with the application for a license. If the application is denied, one-half (1/2) of the fee shall be returned.

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

9-310. 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 Ripley Police Department, or any person designated by the board of mayor and aldermen.

9-311. 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 police chief. 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 police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the operator. The application for renewal shall be a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

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

(3) If the Ripley Police Department is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the police chief.

(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 police chief. The application for renewal must be filed not later than sixty (60) days before the permit expires. The application for renewal shall be filed in triplicate with and dated by the police chief. A copy of the application for renewal shall be distributed promptly by the police chief to the city recorder and to the employee. The application for renewal shall be upon a form provided by the police chief and shall contain such information and data, given under oath or affirmation, as may be required by the board of mayor and aldermen.

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

(6) If the Ripley Police Department is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the police chief.

9-312. Revocation of license or permit. (1) The police chief 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 council 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 council 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 Lauderdale 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 police chief, before revoking or suspending any license or permit, shall give the operator or employee at least ten (10) days' written notice of the charges against him or her and the opportunity for a public hearing before the board of mayor and aldermen, at which time the operator or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

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

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

9-313. Hours of operation. (1) No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Monday through Saturday, and between the hours of 1:00 A.M. and 12:00 P.M. on Sunday.

(2) All adult-oriented establishments shall be open to inspection at all reasonable times by the Ripley Police Department, the Lauderdale County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate.

9-314. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the name, and aliases used by the employee, home address, age, birth date, sex, height, weight,

color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the board of mayor and aldermen. The above information on each employee shall be maintained in the register on the premises for a period of three (3) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by police upon demand of a member of the Ripley 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 Ripley 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 or other types of adult entertainment.

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

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

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows:

This Adult-Oriented Establishment is Regulated by the City of Ripley Municipal 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.

9-315. 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.

(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 person on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer.

9-316. Violations and penalty. (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) for each violation 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.

CHAPTER 4

MOBILE FOOD PREPARATION VEHICLES

SECTION

- 9-401. Purpose.
- 9-402. Definitions.
- 9-403. Mobile food preparation vehicles, generally.
- 9-404. Operational requirements.
- 9-405. Food handler requirements.
- 9-406. Equipment standards.
- 9-407. Maintenance of premises.
- 9-408. Vehicle sanitation requirements.
- 9-409. Areas of operation.
- 9-410. Other.
- 9-411. Revocation of permit.
- 9-412. Appeal of revocation.
- 9-413. Vendor permit and schedule of fees.
- 9-414. Violations and penalty.

9-401. Purpose. The purpose of this chapter is to regulate where and when mobile food preparation vehicles can operate within the corporate limits.

9-402. Definitions. As used in this chapter the following terms shall have the meaning ascribed to them in this section unless clearly indicated otherwise:

(1) Canteen truck. Vehicle that operates to provide food services to employees at a location where access to other good service is impractical (e.g., a construction site); from which the operator vends fruits, vegetables, pre-cooked foods such as hot dogs, pre-packaged foods, and pre-packaged drinks that require no preparation or assembly of foods or beverages except for the heating of pre-cooked foods; which operate at a single location for a period not longer than one and one half (1.5) hours; and which do not advertise in any form to the general public except by virtue of signage on the vehicle. Canteen trucks that operate other than as defined herein are mobile food preparation vehicles and must comply with all mobile food preparation vehicle regulations.

(2) Commissary. State of Tennessee licensed stationary food establishment that serves mobile food dispensers, mobile food facilities, vending machines, or other food dispensing operations where:

- (a) Food, containers, or supplies are stored;
- (b) Food is prepared or prepackaged for sale or service at other locations;
- (c) Utensils are cleaned; or
- (d) Liquid and solid wastes are disposed of.

(3) Food truck rally. Coordinated and advertised gathering of more than four (4) food truck/mobile food preparation vehicles, in one (1) location on a date certain with the intent to serve the public.

(4) Ice cream truck. Vehicle from which the operator vends only pre-packaged frozen dairy or frozen water-based food products, soft serve, or hand-dipped frozen dairy products or frozen water-based food products, and pre-packaged beverages.

(5) Location. Any single property parcel and any other parcel that is contiguous or cumulatively continuous to that owned or controlled by a single or affiliated entity(ies).

(6) Menu change. Modification of a food establishment's menu that requires a change in the food establishment's food preparation equipment, storage equipment or storage capacity previously approved by the health department. The term includes, but is not limited to, the addition of potentially hazardous food to a menu, installation of new food preparation or storage equipment or increasing storage capacity.

(7). Mobile food preparation permit/vendor permit. A permit issued by the city for the operation of mobile food preparation vehicles.

(8) Mobile food preparation vehicle. Any motorized vehicle that includes a self-contained or attached trailer kitchen in which food is prepared, processed, or stored and used to sell and dispense food to the ultimate consumer. Mobile food preparation vehicles must be mobile at all times during operation. The mobile food preparation vehicle must be on wheels (excluding boats) at all times. Any mobile food preparation vehicle that removes such wheels or becomes stationary must meet all Tennessee Department of Health Regulations 1200-23-1 *et. seq.* in their entirety. This definition does not include pushcarts as regulated by other city codes and prohibited from selling potentially hazardous foods by the Tennessee Department of Health, nor vehicles from which only ice cream and other frozen, non-hazardous food products are sold, nor vehicles operating under a special event permit.

(9). Operation. To promote or sell food, beverages, and other permitted items from the mobile food service vehicle and includes all aspects of the work.

(10) Operator. Any person owning, operating, or permitted to operate a mobile food preparation vehicle and, collectively, refers to all such persons.

(11) Restaurant. Any public place at a fixed location kept, used, maintained, advertised, and held out to the public as a place where food and drink are prepared and served to the public for consumption on or off the premises pursuant to the required licenses. Such establishments include, but are not limited to, restaurants, bars, lounges, coffee shops, cafeterias, dining rooms, eating houses, short order cafes, luncheonettes, grills, tearooms and sandwich shops. To ensure compliance with the Tennessee Food Safety Act, every food service establishment is inspected between one and four (4) times per year, depending on various factors such as the complexity of the food operation and level of active managerial control over foodborne illness risk factors.

Current food permits and the most recent inspection report must be displayed in a prominent location for the public to view.

(12) **Servicing area.** The required area of each mobile food preparation vehicle for supplying, cleaning, and servicing the food preparation area of the vehicle. The servicing area shall include overhead protection, shall provide for the flushing and drainage of liquid wastes separate from the location provided for water servicing, and for the loading and unloading of food and related supplies.

(13) **Vehicle.** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices moved by human power or used exclusively upon stationary rails or track.

(14) **Vendor.** A person or company offering something for sale, especially a trader in the street.

9-403. Mobile food preparation vehicles, generally. Mobile food preparation vehicles shall meet all applicable requirements of this article in addition to the requirements outlined as follows:

(1) No person shall engage in the business of a mobile food preparation vehicle/food truck, canteen truck, ice cream truck, or pushcart within the corporate limits without first having obtained a permit required by this chapter and the State of Tennessee.

(2) A mobile food preparation vehicle license or permit, as authorized by the State of Tennessee and local ordinance, will not be issued to a person unless the following conditions are met:

(a) Obtaining a commissary license or having a written commissary agreement, if required by the Lauderdale County Health Department;

(b) Display of its business license number, business name and state and local permit numbers, with letters and numbers at least three inches (3") in height, in a prominent and visible location on the vehicle;

(c) A valid driver's license for any driver, current auto insurance (including liability insurance), and current vehicle registration as required by state law; and

(3) All current permits must be posted in a conspicuous manner, in compliance with state laws and regulations.

(4) All permits are specific; location change requires a new permit.

(5) If in operation for more than three (3) hours, a flushable restroom is required for employee use.

(6) Recent health department inspection must be posted and visible to all citizens and authorities at all times.

(7) All mobile food preparation vehicles are subject to local fire inspection if the operator does not hold a state fire permit as provided by *Tennessee Code Annotated*, section 68, chapter 102.

9-404. Operational requirements. (1) External sound devices. No mobile food preparation vehicle shall be equipped with any external electronic or other sound-amplifying device.

(2) No detached signs permitted. All signs must be permanently affixed to, or painted on, the mobile food preparation vehicle and shall extend no more than six inches (6") from the vehicle. No sign shall flash; cause interference with radio, telephone, television, or other communication transmission; produce or reflect motion pictures; emit visible smoke, vapor, particles, or odor; or be animated or produce any rotation, motion, or movement. Changeable copy signs shall be permitted, but the total area of such signs on the vehicle, when parked and the vehicle is set up to operate, must not exceed thirty (30) square feet. Each message displayed on any electronic changeable copy sign must be static or depicted for a minimum of ten (10) seconds. Transition from one message to another shall be continuous without fade, dissolve, travel, or scrolling animation or any other type of movement between messages. Animated video or continuous scrolling of messages is prohibited.

(3) Sanitary collection. Vendor must provide for the sanitary collection of all refuse, litter, garbage, and waste generated by the patrons using that service and remove all such materials from the location before the vehicle departs. This includes a requirement to physically inspect the general area for such items prior to the vehicle's departure.

(4) Vendor permit. The vendor permit and payment of permit fees set out in § 9-413 of this code, must be obtained prior to set up of any mobile food preparation vehicle.

(5) Prices displayed. Prices of food shall be prominently displayed.

(6) Vehicle requirements. (a) Design and construction. Mobile food preparation vehicles must be specifically designed and constructed for the purpose of preparation and sale of the specific type of food being sold and may not operate in any manner that is not safe and is not compatible with the purpose for which the vehicle has been designed and constructed, if determined by the code enforcement officer.

(b) Licensing. Mobile food preparation vehicles must be licensed in accordance with the rules and regulations of any local, state, and federal agency having jurisdiction over motor vehicles and all products sold therein must be properly licensed, permitted, and allowed by local, state, and federal laws or regulations.

(7) Business access. No mobile food preparation vehicle may operate in a location that impedes the ingress to, egress from, or signage of another business or otherwise causes undue interference with access to other businesses or emergency areas, paths, or facilities.

(8) Distance between vehicles. A mobile food preparation vehicle may not operate within three feet (3') or any other mobile food preparation vehicle.

(9) Types of cooking apparatuses. Open flame cooking (other than with a gas range specifically constructed and designed within the mobile food

preparation vehicle) either within or outside a mobile food preparation vehicle is prohibited, except where such activity is specifically permitted by the city fire department in writing. Canteen trucks may have installed within the vehicle a heating apparatus that is used only for serving heated, precooked foods provided such apparatus is permitted by state and local regulations. Ice cream trucks can have no heating apparatus installed within the vehicle for the purpose of food service.

10. Commissary. If the operator has a fixed, non-mobile establishment or any other place that is used for the storage of supplies, the preparation of food to be sold or served at or by the mobile food preparation vehicle, or the cleaning and servicing of the mobile food preparation vehicle, such a commissary location within the city cannot be located in any area zoned as residential, unless such commissary complies with all applicable zoning regulations and requirements and building code requirements.

(11) Utilities. All mobile food preparation vehicles shall comply with the version of the electrical code currently adopted by the city and any power, water, or sewage required for the mobile food preparation vehicle shall be self-contained and shall not use utilities drawn from other sources.

(12) Fire extinguishers required. All mobile food preparation vehicles must be equipped with a 2-A:10-B:C fire extinguisher that is certified annually by a licensed company. Additionally, any mobile food preparation vehicles that produce grease-laden vapors (e.g., those units with deep fat fryers or flat top griddles) must be equipped with a K-Class fire extinguisher that is certified annually by a licensed company.

(13) Support methods. No mobile food preparation vehicle may use stakes, rods, or any method of support that must be drilled, driven, or otherwise fixed, into or onto asphalt, pavement, curbs, sidewalks, or buildings.

(14) Pedestrian service only. Mobile food preparation vehicles shall serve pedestrians, drive up, or drive-in service, but drive-thru service is prohibited.

(15) Spills. To prevent discharges into the storm drain system and river, each mobile food preparation vehicle shall comply with all storm water regulations of the city. In addition, each mobile food preparation vehicle shall have a spill response plan and kit on board to contain and remediate any discharge from the vehicle. In the event of a spill, operators are required to call Ripley Fire Department to assist with the clean-up of spills and to determine the need for a more extensive response.

(16) Spill plan. Mobile food preparation vehicles must post, on the interior of the vehicle, instructions for containing spills; at a minimum, such plan should include:

(a) A description of and typical quantities of materials that may be spilled; and

(b) Procedures for containing potentially spilled materials including proper disposal of spilled materials; and

(c) Procedures for storage, use, handling, and transfer of materials to reduce potential for spilling; and

(d) Emergency notification requirements.

(17) Spill kit. Mobile food preparation vehicles must have a response kit on the vehicle which includes:

(a) A minimum of a five (5) gallon storage and clean-up container capacity with lid; and

(b) A minimum of ten (10) absorbent pads and two (2) absorbent socks or equivalent; and

(c) A disposable bag adequate to hold contents of spill kit and spilled materials; and

(d) One (1) pair of disposable gloves.

(18) Refuse. The area of a mobile food preparation vehicle operation must be kept neat and orderly at all times. Operation of a mobile food preparation vehicle in any area is deemed acceptance by the operator of the responsibility for cleanliness of the reasonable area surrounding the operation (not less than twenty feet (20') from all parts of the vehicle) regardless of the occurrence or source of any waste in the area. The operator must provide proper trash receptacles for public use that are sufficient and suitable to contain all trash generated by the mobile food preparation vehicle during the period of operation at a location. All trash within the area of operation, regardless of the source, must be removed, and all garbage, trash, and trash receptacles must be removed when full and prior to departure of a mobile food preparation vehicle from a location.

(19) Alcohol sales. Mobile food preparation vehicles may not sell alcoholic beverages, except as may be specifically allowed by state law and city ordinance. Canteen trucks and ice cream trucks are prohibited from selling alcoholic beverages.

9-405. Food handler requirements. All food handlers shall meet the standards as set forth in *Tennessee Code Annotated*, § 68-14-701, *et seq.*, "Tennessee Food Safety Act," *Tennessee Code Annotated* § 53-8-201, *et seq.*, "Tennessee Retail Food Safety Act," and Tennessee Department of Health Rules and Regulations enacted under these laws.

9-406. Equipment standards. All mobile food preparation vehicles shall meet the standards as set forth in Tennessee Department of Health Rules and Regulations.

9-407. Maintenance of premises. All mobile food preparation vehicles shall meet the standards as set forth in state law and Tennessee Department of Health Rules and Regulations.

9-408. Vehicle sanitation requirements. (1) Each vehicle shall be constructed so that the portions of the vehicle containing food shall be covered so that no dust or dirt will settle on the food; and such portions of the vehicle which are designed to contain food shall be at least eighteen inches (18") above the surface of the public way while the vehicle is being used for the conveyance of food.

(2) The food storage areas of each vehicle shall be kept free from rats, mice, flies and other insects and vermin. No living animals, birds, fowl, reptiles, or amphibians shall be permitted in any area where food is stored.

(3) Hazardous non-food items such as detergents, insecticides, rodenticides, plants, paint, and paint products that are poisonous or toxic in nature shall not be stored in the food area of the vehicle.

(4) The vehicle shall be enclosed with tops and sides.

(5) The vehicle shall not be used for any purpose other than for the purpose described in this chapter.

9-409. Areas of operation. Mobile food preparation vehicles are:

(1) Allowed to operate only in private property in locations zoned business, commercial, or manufacturing zones. Such operations require the written, signed, and notarized permission of the property owner, detailing the terms of the permission. Specifically, a mobile food preparation vehicle may operate on the dates and times and for the duration provided in said writing;

(2) Not allowed to park or operate on public streets, rights-of-way, sidewalks, lots, alleyways, or other public property including, but not limited to, city-owned parks or other city-owned property;

(3) Allowed exception to the aforesaid subsection (2) for purposes of
 (a) Operation at city-sponsored events where mobile food preparation vehicles are allowed by the departmental organizer; in such cases, the vehicles are subject to permit requirements and may only operate in areas designated by the departmental organizer and for the duration of the event; or

(b) Operation under a special events permit, but are subject to the requirements and restrictions of said permit.

9-410. Other. (1) Unimproved properties. Notwithstanding the existence of an agreement with the owner of the property, a mobile food preparation vehicle may not operate on an unimproved parcel or portion of an unimproved parcel unless that parcel is paved and has paved ingress and egress.

(2) Maximum number of mobile food preparation vehicles. No more than one (1) mobile food preparation vehicle may operate at any location with coordinated advertising to the public unless a special event permit has been secured, or in connection with a city-sponsored event.

(3) Existing parking spaces. Mobile food preparation vehicles may not require the use of more than twenty-five percent (25%) of existing parking spaces located on the property for which it has an agreement to operate.

(4) Right-of-way--ice cream trucks. An ice cream truck may not operate from the right-of-way.

(5) Private property--ice cream trucks. An ice cream truck may operate on private property with written, signed, and notarized permission of the property owner, detailing the terms of the permission. Specifically, an Ice cream truck may operate on the dates and times and for the duration provided in said writing. An ice cream truck may not require use of more than twenty-five percent (25%) of existing parking spaces. No ice cream truck may operate on the same or adjoining private property more than two (2) days per week.

9-411. Revocation of permit. Law enforcement, the code enforcement officer, or the city recorder may revoke a permit if it is discovered that:

(1) An applicant obtained the permit by knowingly providing false information on the application;

(2) The continuation of the vendor or operator's use of the permit presents a threat to public health or safety, or if the vendor or operator otherwise presents a threat to public health or safety;

(3) The vendor or operator violates the provisions of this chapter, or any other city ordinance; or

(4) The vendor or operator no longer meets any of the requirements of this chapter, or otherwise becomes ineligible for a permit.

Following the revocation of a permit, a vendor or operator must wait six (6) months before reapplying for a new permit. Upon reapplication, the vendor or operator must pay the full permit fee.

9-412. Appeal of revocation. If a permit is revoked, the responsible town official shall state the specific reasons for the revocation. Any vendor or operator whose permit has been revoked may appeal such revocation by submitting a written request to the responsible town official within ten (10) days of the revocation. A hearing shall be conducted by the code enforcement officer (or by the city recorder, if the code enforcement officer issued the revocation) within thirty (30) days of the official's receipt of such request. The code enforcement officer/city recorder shall consider whether the revocation was justified and whether good cause exists to reinstate the permit. The code enforcement officer/city recorder shall issue its decision on the appeal in a written opinion within ten (10) business days; the written opinion will be sent via first class mail to the vendor or operator at the address listed on the application. The decision resulting therefrom shall be final and subject only to judicial review pursuant to state law.

9-413. Vendor permit and schedule of fees. (1) Application procedure.

A sworn application containing the following information shall be completed and filed with the recorder, along with the permit fee, by each applicant for a permit as a mobile food preparation vehicle/food truck, canteen truck, ice cream truck, or pushcart:

- (a) The complete name and permanent address of the business or organization the applicant represents;
- (b) A brief description of the type of business and the goods to be sold;
- (c) The dates for which the applicant intends to do business;
- (d) The names and permanent addresses of each person who will act as operator;
- (e) The make, model, complete description, and license tag number and state of issue of each vehicle to be used to operate, whether or not such vehicle is owned individually by the person makes sales, by the business or organization itself, or rented or borrowed from another business or person; and
- (f) Tennessee state sales tax number, if applicable.

(2) Permit fee:

- (a) 14-day permit: \$50.00
- (b) Special event permit (2-day maximum) \$50.00
- (c) City-sponsored event \$50.00

(3) Issuance/denial. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall submit to the chief of police a copy of the application form, for verification, and

- (a) If no contrary information is received from the chief of police, issue the permit, a copy of which shall be retained by the chief of police; or
- (b) If contrary information is received from the chief of police, deny the permit.

9-413. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of this chapter. The violation of this chapter shall not only result in revocation of permit, but also be punishable under the general provision of this code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

TITLE 10**ANIMAL CONTROL**¹**CHAPTER**

1. IN GENERAL.
2. DOGS AND CATS.

CHAPTER 1**IN GENERAL****SECTION**

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Enforcement.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle or livestock, knowingly or negligently to permit any of them to run at large in any street, alley or unenclosed lot within the corporate limits. (1994 Code, § 10-101)

10-102. Keeping near a residence or business restricted. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street without a permit from the city recorder. The city recorder and animal control officer shall recommend issuance of a permit only when, in their discretion, the keeping of such an animal in a yard or building under the circumstances set forth in the application for the permit will not injuriously affect the public health or otherwise violate the provisions of state or local law. (1994 Code, § 10-102, modified)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1994 Code, § 10-103)

¹Whenever this title mentioned dogs, it pertains also to cats.

10-104. Adequate food, water, and shelter, etc., to be provided. No animal or fowl shall be kept or confined in any place where the food, water, shelter and ventilation are not adequate and sufficient for the preservation of its health, safe condition, and wholesomeness for food if so intended. (1994 Code, § 10-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1994 Code, § 10-105)

10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in an animal shelter. The animal control agency operating the shelter taking possession of the animal shall provide services under shelter policy and procedures, including notice to owners as required by state law.¹

10-107. Enforcement. Enforcement of the provisions of this chapter may be made by citation of the animal control officer, code enforcement officer, or any law enforcement officer with jurisdiction inside the corporate limits, or by the filing of a private complaint filed in the Ripley City Court by any person against whom a violation of ordinance has occurred, or by any person owning or possessing property on which a violation of ordinance has occurred. (Ord. #536, Nov. 2019, modified)

¹State law reference

Tennessee Code Annotated, § 68-8-107.

CHAPTER 2

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Leash law.
- 10-204. Noisy dogs prohibited.
- 10-205. Confinement of dogs suspected of being rabid.
- 10-206. Vicious dogs.
- 10-207. Tethering.
- 10-208. Curbing.
- 10-209. Seizure and disposition of dogs.
- 10-210. Enforcement.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the Tennessee Anti-Rabies Law (*Tennessee Code Annotated*, §§ 68-8-101 through 68-8-114). (1994 Code, § 10-201, modified)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1994 Code, § 10-202)

10-203. Leash law.¹ (1) Generally. No person, firm, corporation, organization, department, or other entity owning, possessing, harboring, or having charge, care, control, or custody of a dog shall cause, permit, or allow the dog to stray upon any public street, sidewalk, or park, or upon any property not owned and possessed by the dog's owner unless the dog is secured and restrained on a leash and is under the physical restraint of an adult person whose weight is greater than said dog.

(2) Exception. Securing and restraining on a leash is not required on private property owned or possessed by another, if the owner obtains the permission or consent of the person or entity in lawful possession of said property. (Ord. #527, April 2018, modified)

¹State law reference

Tennessee Code Annotated, §§ 68-8-108 and 68-8-109.

10-204. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining or howling, annoys or disturbs the peace and quiet of any neighborhood. (1994 Code, § 10-205)

10-205. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or the code enforcement officer may cause such dog to be confined or isolated for such time as he reasonably deems necessary. (1994 Code, § 10-206, modified)

10-206. Vicious dogs. (1) Definition of terms. As used in this chapter:

(a) "Owner" means any person, firm, corporation, organization, department, or other entity owning, possessing, harboring, or having charge, care, control, or custody of a dog.

(b) "Unconfined" means the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot (1'). All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.

(c) "Vicious dog" means:

(i) Any dog with a known propensity, tendency, or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals;

(ii) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this chapter;

(iii) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal;

(iv) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting;

(v) Any pit bull terrier, which shall be defined as any American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier breed of dog, or any mixed breed of dog which contains as an element of its breeding the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of American Pit Bull Terrier or Staffordshire Bull Terrier or American Staffordshire Bull Terrier; or

(vi) Any Rottweiler, which shall be defined as any Rottweiler breed of dog, or any mixed breed of dog which contains

as an element of its breeding the breed of Rottweiler as to be identifiable as partially of the breed of Rottweiler.

(2) Confinement. The owner of a vicious dog shall not suffer or permit the dog to go unconfined.

(3) Exceptions to confinement. A vicious dog may be unconfined for the following purposes:

(a) Transporting the dog to or from a state-licensed veterinary office;

(b) Transporting the dog to or from a state-licensed kennel for the lodging or breeding of dogs; or

(c) Transporting the dog to the residence of a person who has purchased the dog.

When exercising these exceptions, the owner of a vicious dog shall not suffer or permit the dog to go beyond confinement unless the dog is securely muzzled and restrained by chain or leash, and under the physical restraint of an adult person whose weight is greater than said dog. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any human or animal.

(4) Signs. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.

(5) Dog fighting. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the purpose of causing or encouraging the dog to attack human beings or domestic animals.

(6) Insurance. The owner of a vicious dog must, within thirty (30) days of the effective date of this chapter, provide proof to the city recorder of public liability insurance in the amount of at least fifty thousand dollars (\$50,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.

(7) Permit required. No person shall own or maintain any vicious dog within the city corporate limits until he/she obtains a permit so to do from the city recorder. The city recorder shall issue such a permit to any applicant whose premises comply with the requirements of this section, as determined by the animal control officer or code enforcement officer of the city, and who has otherwise exhibited compliance with the other provisions of this section. Any permit so issued may be revoked by the city recorder or by the code enforcement officer for failure to comply with any requirement of this section, as determined by the animal control officer or code enforcement officer. However, notice of revocation shall be proffered in writing by said officer and served upon the permit holder and he/she shall be given the right to be heard by the board of mayor and aldermen as to why his/her permit should not be revoked, upon

request by said permit holder made in writing within five (5) days of notice of revocation.

(8) City property. The owner of a vicious dog shall not suffer or permit the dog to be upon city-owned property for any purpose, except upon the city roads for the purposes described in subsection (3) herein.

(9) Challenge. Any owner, upon being cited for violation of any provision of this section, whose dog is determined to be a vicious dog solely in reliance on subsection (1)(c)(v) or (1)(c)(vi) of this section, may challenge the assertion that his/her dog is of the specified breed, or mix of said breed, by providing to the citing officer, within ten (10) days of the citation, genetic testing results certified by a licensed veterinarian. If the certified genetic testing results evince that the dog is not of the specified breed, or mix of the specified breed, the citation shall be withdrawn or dismissed. (Ord. #527, April 2018, modified)

10-207. Tethering. Generally. No person, firm, corporation, organization, department, or other entity owning, possessing, harboring, or having charge, care, control, or custody of a dog shall cause, permit, or allow the dog to be secured, restrained or tethered on a rope, chain, leash, or other similar restraint attached or anchored to the ground or any other stationary fixture for a period in excess of thirty (30) minutes during any calendar day. (Ord. #527, April 2018, modified)

10-208. Curbing. (1) Defined. "Curbing" is the removal of solid waste deposited by said animal upon the property of another including, but not limited to, sidewalks, parks, other public areas, or property not owed and possessed by the dog's owner.

(2) Generally. Any person, firm, corporation, organization, department, or other entity owning, possessing, harboring, or having charge, care, control, or custody of a dog shall be responsible for curbing.

(3) Exceptions. Curbing is not required where the person owning, possessing, harboring, or having charge, care, control, or custody of a dog has a medically-documented physical disability which prevents him/her from knowing of the solid waste, or which restricts his/her range of motion in such a manner as prevents him/her from removing the solid waste.

(4) Enforcement. Enforcement of this provision may be made by citation of the animal control officer, code enforcement officer, or any law enforcement officer with jurisdiction inside the corporate limits, or by the filing of a private complaint filed in the Ripley City Court by any person owning or possessing property on which a dog's solid waste is deposited but not removed as required herein.

(5) Penalty. Each instance of failure to curb shall constitute a separate offense. For purposes of this section, a first violation is punishable by a fine of twenty-five dollars (\$25.00), and second or subsequent violation is punishable by a fine of fifty dollars (\$50.00). (Ord. #527, April 2018)

10-209. Seizure and disposition of dogs. The provisions of § 10-106 shall apply to any dog running at large or otherwise being kept in violation of this chapter.

No dog shall be released from the pound or animal shelter unless it has been vaccinated and has a tag placed on its collar. (1994 Code, § 10-207, modified)

10-210. Enforcement. Enforcement. Enforcement of the provisions of this chapter may be made by citation of the animal control officer, code enforcement officer, or any law enforcement officer with jurisdiction inside the corporate limits, or by the filing of a private complaint filed in the Ripley City Court by any person against whom a violation of ordinance has occurred, or by any person owning or possessing property on which a violation of ordinance has occurred. (Ord. #536, Nov. 2019, modified)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. FIREARMS, WEAPONS AND MISSILES.
4. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
5. PANHANDLING.
6. MISCELLANEOUS.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking beer, etc., on streets, etc.
 11-102. Minors in beer places.

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a beer permit and license for on-premises consumption. (1994 Code, § 11-101)

11-102. Minors in beer places. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption.

¹Municipal code references

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

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

State law reference

See *Tennessee Code Annotated*, § 33-10-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-201. Anti-noise regulations.

11-201. 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, street car or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort or repose of persons in any office or hospital, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M. or at any time or place so as to annoy or disturb the quiet, comfort or repose of any person in any hospital, dwelling, hotel or other type of residence or of any person in the vicinity.

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

(e) Use of vehicle. The use of any automobile, motorcycle, street car 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) 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.

(g) 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 weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the codes enforcement officer granted for a period while the emergency continues not to exceed thirty (30) days. If the codes enforcement officer 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.

(h) 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.

(i) 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.

(j) 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.

(2) Exceptions. None of the terms or prohibitions hereof shall apply to or be enforced against:

(a) Municipal vehicles. Any vehicle of the city while engaged upon necessary public business.

(b) Repair of streets, etc. Excavations or repairs of bridges, streets or highways at night, by or on behalf of the city, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations.

However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1994 Code, § 11-402, modified)

CHAPTER 3**FIREARMS, WEAPONS AND MISSILES****SECTION**

11-301. Air rifles, etc.

11-302. Discharge of firearms.

11-301. Air rifles, etc. It shall be unlawful for any person in the City of Ripley 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. (1994 Code, § 11-601)

11-302. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1994 Code, § 11-603)

CHAPTER 4

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-401. Trespassing.

11-402. Interference with traffic.

11-401. Trespassing. (1) On premises open to the public.

(a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.

(b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.

(2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.

(3) Vacant buildings. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(4) Lots and buildings in general. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.

(5) Peddlers, etc. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹

11-402. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

¹Municipal code reference

Provisions governing peddlers: title 9, chapter 1.

CHAPTER 5

PANHANDLING

SECTION

11-501. Definition.

11-502. General panhandling.

11-503. Aggressive panhandling.

11-501. Definition. "Panhandling" is defined as any solicitation made in person upon any street, alley, sidewalk, public place, park and/or home place where there is a request for an immediate donation of money or other thing of value for oneself or another person or entity. This definition also includes the offering of the sale of an item for an amount far exceeding its value, under circumstances in which a reasonable person would understand that the purchase is, in substance, a donation. However, any definition of "panhandling" shall not include the act of passively standing or sitting, performing music, singing or speaking with a sign or other indication that a donation is being sought but without any vocal request for money other than a response to an inquiry by another person. "Panhandling" under this definition does not apply to a recognized charitable organization, churches, school organizations or groups organized and sanctioned to raise funds for the same. (1994 Code, § 11-901)

11-502. General panhandling. "General panhandling" for the purposes of safety for the panhandler and the citizens of the City of Ripley shall be illegal under the following circumstances:

It shall be unlawful for any person to engage in an act of panhandling when either the panhandler or the person being solicited is located in, on, or at any of the following locations:

(1) Within or any closer than ten feet (10') (in any direction) of a point of entry or exit from any building open to the public including any business or commercial establishment, church, school, park, daycare, governmental facility or charitable organization without the express written consent of the same executed by a person with authority to bind such entity or premises;

(2) Any area within twenty-five feet (25') (in any direction) of the entrance of a financial institution including but not limited to an automatic teller machine (ATM);

(3) Within twenty-five feet (25') (in any direction) of any intersection of any street;

(4) At any home, apartment or personal property; and

(5) At any location on any day after sunset or before sunrise unless excepted herein. (1994 Code, § 11-902, modified)

11-503. Aggressive panhandling. "Aggressive panhandling" is strictly illegal for the safety of all and is described as follows:

(1) To approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with:

(a) Imminent bodily harm or injury;

(b) The commission of a criminal act upon the person or another person, or upon property in the person's possession; or

(c) Conducted while trespassing on another's property.

(2) To persist in any form of "panhandling" after the person solicited has given a negative response;

(3) To block, either individually or as part of a group of persons, the passage of a solicited person;

(4) To touch a solicited person or their property without the person's consent;

(5) To render any type of service to a person or entity's property without the prior consent of the owner, operator or occupant of such property and thereafter asking, begging or soliciting alms or payment for the performance of such service, regardless of whether such property is located at the time on a public street or upon other public or private property (e.g., washing automobile windshields without permission); or

(6) To engage in conduct that would be construed by a reasonable person as intended to intimidate, compel or force a solicited person to make a donation. (1994 Code, § 11-903)

CHAPTER 6

MISCELLANEOUS

SECTION

11-601. Caves, wells, cisterns, etc.

11-602. Curfew for minors.

11-603. Disorderly conduct.

11-601. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1994 Code, § 11-802)

11-602. Curfew for minors. (1) It is unlawful for any minor seventeen (17) years and under to remain in or upon any public street, highway, park, vacant lot, establishment or other public place within the city during the following time frames:

(a) Sunday through Thursday between the hours of 9:00 P.M. to 6:00 A.M.; and

(b) Friday and Saturday between the hours of 10:00 P.M. to 6:00 A.M.

(2) It is unlawful for a parent or guardian of a minor to knowingly permit or by inefficient control to allow such minor to be or remain upon any street or establishment under circumstances not constituting an exception to, or otherwise beyond the scope of subsection (1) above. The term "knowingly" includes knowledge which a parent or guardian should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody. The term "knowingly" is intended to continue to keep neglectful or careless parents up to a reasonable community standard of parental responsibility through an objective test. It is not a defense that a parent was completely indifferent to the activities or conduct or whereabouts of such minor child.

(3) The following are valid exceptions to the operation of the curfew:

(a) At any time, if a minor is accompanied by such minor's parent or guardian;

(b) When accompanied by an adult authorized by a parent or guardian of such minor to take such parent or guardian's place in accompanying the minor for a designated period of time and purpose within a specified area;

(c) Until the hour of 12:30 A.M., if the minor is on an errand as directed by such minor's parent;

(d) If the minor is legally employed, for the period from forty-five (45) minutes before to forty-five (45) minutes after work, while going directly between the minor's home and place of employment. This

exception shall also apply if the minor is in a public place during the curfew hours in the course of the minor's employment. To come within this exception, the minor must be carrying written evidence of employment which is issued by the employer;

(e) Until the hour of 12:30 A.M. if the minor is on the property of or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto, if the owner of the adjacent building does not communicate an objection to the minor or the law enforcement officer;

(f) When returning home by a direct route from (and within thirty (30) minutes of the termination of) a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play, or sport event. This exception does not apply beyond 1:00 A.M.;

(g) In the case of reasonable necessity, but only after such minor's parent has communicated to law enforcement personnel the facts establishing such reasonable necessity relating to specified streets at a designated time for a described purpose including places of origin and destination. A copy of such communication, or the record thereof, and appropriate notation of the time it was received and of the names and addresses of such parent or guardian and minor constitute evidence of qualification under this exception;

(h) When exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly. A minor shall show evidence of the good faith of such exercise and engage in same only after providing notice to the city officials by delivering to the appropriate law enforcement authority a written communication, signed by such minor, with the minor's home address and telephone number, addressed to the mayor of the city specifying when, where, and in what manner the minor will be on the streets at night during an hour when the curfew is still otherwise applicable to the minor in the exercise of a First Amendment right specified in such communication; and

(i) When a minor is, with parental consent, in a motor vehicle engaged in good faith interstate travel.

(4) A violation of this section shall be governed by *Tennessee Code Annotated*, title 37, or other applicable general law.

(5) When a child and/or the child's parent(s) or legal custodian(s) or guardian(s) are in violation of this section, the apprehending officer shall issue a citation or file a petition of the child and the child's parent(s) or legal custodian(s) or guardian(s) to appear before the juvenile court for adjudication and disposition of the matter as an unruly, delinquent, adult and/or contempt action, as applicable. (1994 Code, § 11-804, modified)

11-603. Disorderly conduct. It shall be unlawful for any person to engage in disorderly conduct, which is defined as the use of rude, boisterous, offensive, obscene or blasphemous language in any public place; or to make or to countenance or assist in making any improper noise, disturbance, breach of the peace, or diversion, or to conduct oneself in a disorderly manner, in any place to the annoyance of other persons. (1994 Code, § 11-805)

TITLE 12**BUILDING, UTILITY, ETC. CODES****CHAPTER**

1. BUILDING CODE.
2. PLUMBING CODE.
3. ELECTRICAL CODE.
4. FUEL GAS CODE.
5. RESIDENTIAL CODE.
6. ENERGY CONSERVATION CODE.
7. MECHANICAL CODE.
8. PROPERTY MAINTENANCE CODE.
9. SWIMMING POOL AND SPA CODE.
10. ADMINISTRATIVE HEARING OFFICER.

CHAPTER 1**BUILDING CODE¹****SECTION**

- 12-101. International Building Code adopted.
- 12-102. Modifications.
- 12-103. Permit fees.
- 12-104. Available in recorder's office.
- 12-105. Violations and penalty.

12-101. International Building Code adopted. That a certain document, one (1) copy of which is on file in the office of the Ripley City Recorder, being marked and designated as the *International Building Code*,² 2018 edition including Appendix B, as published by the International Code Council, be and is hereby adopted as the Building Code of the City of Ripley, Tennessee, for regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied

¹Municipal 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.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions, and terms of said building code on file in the office of the Ripley City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions, and changes, if any, prescribed in § 12-102 of this chapter.

12-102. Modifications, fees, additions, insertions, deletions and changes to the International Code including and the International Building Code the International Residential Code. Whenever the building code refers to the "chief appointing authority," the "chief administrator," the "codes enforcement officer" or "director of public works" it shall, for the purposes of the building code, mean the designated official of the City of Ripley who has duties corresponding to those of the named official.

(1) All residential structures in the City of Ripley Tennessee shall be built on sixteen inch (16") centers, including floor-framing members, roof members, and wall-framing members, however, wall-framing members may be constructed on twenty-four inch (24") centers only if using two inches by six inches (2" x 6") studs or larger.

(2) Any structure converted to a residential structure in the City of Ripley Tennessee shall meet the requirements of sixteen inch (16") centers as listed in (1) above.

(3) All structures located in a flood zone shall have at least one foot (1') of freeboard.

(4) Complete deletion of chapter 11 (Accessibility), chapter 27 Electrical and Appendix K (Electrical Code).

(5) The following letter visibility chart for address numbers on structures shall be adopted:

MEASUREMENT FROM THE CENTER OF THE STREET:

Viewing Distance	Min. Required Letter Height
100 ft	4 in
150 ft	6 in
200 ft	8 in
250 ft	10 in
360 ft (city block)	16 in

Viewing Distance	Min. Required Letter Height
500 ft	22 in
750 ft	33 in
1,000 ft	43 in
1,320 ft (1/4 mile)	57 in

(6) On all buildings, structures, electrical, plumbing, and mechanical and gas systems or alterations requiring a building permit, a fee for each permit shall be paid as required at the time of filing the application. The codes enforcement officer shall collect building permit fees in accordance with the following schedule:

SCHEDULE OF PERMIT FEES

Total valuation shall include the total value of the work for which a permit is being issued.

\$0 to \$50,000: \$15.00 for the first \$1,000.00 plus \$5.00 for each additional thousand or fraction thereof, to and including \$50,000.00.

\$50,000 to \$100,000: \$260.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, to and including \$100,000.00.

\$100,000 to \$500,000: \$460.00 for the first \$100,000.00 plus \$3.00 for each additional thousand or fraction thereof, to and including \$500,000.00.

\$500,000 and up: \$1,660.00 for the first \$500,000.00 plus \$2.00 for each additional thousand or fraction thereof.

MOVING FEE

For the moving of any building or structure, the fee shall be \$100.00.

DEMOLITION FEE

For the demolition of any building or structures, the fee shall be:

0 up to 100,000 cu ft	\$50.00
100,000 cu ft and over	\$0.50/1,000 cu ft

WORK COMMENCING BEFORE PERMIT ISSUANCE

Where work for which a permit is required by this code is started or proceeded prior to obtaining said permit, the fees herein specified shall 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.

12-103. Permit fees. All building permit fees are set forth in a "schedule of fees" as authorized and approved from time to time by ordinance of the board of mayor and aldermen.

12-104. Available in recorder's office. Pursuant to the requirements of § 6-54-502 *Tennessee Code Annotated*, one (1) copy of the *International Building Code*, 2018 edition, has been placed on file in the office of the Ripley City Recorder and shall be kept there for the use and inspection of the public during normal business hours.

12-105. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the building code as herein adopted by reference and modified.

CHAPTER 2

PLUMBING CODE¹

SECTION

- 12-201. International Plumbing Code adopted.
- 12-202. Modifications.
- 12-203. Permit fees.
- 12-204. Available in recorder's office.
- 12-205. Violations and penalty.

12-201. International Plumbing Code adopted. That a certain document, one (1) copy of which is on file in the office of the Ripley City Recorder, being marked and designated as the *International Plumbing Code*,² 2018 edition, including Appendix B, as published by the International Code Council, be and is hereby adopted as the Plumbing Code of the City of Ripley, Tennessee, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said plumbing code on file in the office of the Ripley City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, deletions, and changes, if any, prescribed in § 12-202 of this chapter.

12-202. Modifications. The following sections of the *International Plumbing Code*, 2018 edition, are hereby revised as follows:

- (1) The City of Ripley shall be inserted in the blanks referring to the name of the jurisdiction.
- (2) Add the following text to Section 106.5.3: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections

¹Municipal code references

Cross connections: title 18.

Street excavations: title 16.

Wastewater treatment: title 18.

Water and sewer system administration: title 18.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) In Section 106.6.3, exceptions #2 and #3 are deleted with no substitution.

(4) In Section 108.4, the blanks referring to violations shall be inserted with "misdemeanor" and "fifty dollars" (\$50.00) as appropriate; and all references to imprisonment shall be deleted.

(5) In Section 305.4 .1, "18 inches" shall be inserted into the blanks referring to minimum depths for underground sanitary water and sewer installations.

12-203. Permit fees. All fees are set forth in a "schedule of fees" as authorized and approved from time to time by ordinance of the board of mayor and aldermen.

12-204. Available in recorder's office. Pursuant to the requirements of § 6-54-502 *Tennessee Code Annotated*, one (1) copy of the *International Plumbing Code*, 2018 edition, has been placed on file in the office of the Ripley City Recorder and shall be kept there for the use and inspection of the public during normal business hours.

12-205. Violations and penalty. 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.

CHAPTER 3

ELECTRICAL CODE¹

SECTION

- 12-301. Electrical code adopted.
- 12-302. Available in building inspector's office.
- 12-303. Permit required for doing electrical work.
- 12-304. Violations and penalty

12-301. Electrical code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 through 6-54-506 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 other purposes, the *National Electrical Code*,² 2018 edition, as prepared by the National Fire Protection Association, is hereby adopted and incorporated by reference as a part of this code and is hereinafter referred to as the electrical code.

12-302. Available in building inspector'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 building inspector's office and shall be kept there for the use and inspection of the public.

12-303. Permit required for doing electrical work. No electrical work shall be done within the City of Ripley until a permit therefor has been issued by the city. The term "electrical work" shall not be deemed to include minor repairs that do not involve the installation of new wire, conduits, machinery, apparatus, or other electrical devices generally requiring the services of an electrician.

12-304. Violations and penalty. 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.

¹Municipal code references

Fire protection, fireworks and explosives: title 7.

²Copies of this code may be purchased from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101.

CHAPTER 4

FUEL GAS CODE¹

SECTION

12-401. International Fuel Gas Code adopted.

12-402. Modifications.

12-403. Use of existing piping and appliances.

12-404. Available in recorder's office.

12-405. Violations and penalty.

12-401. International Fuel Gas Code adopted. That a certain document, one (1) copy of which is on file in the office of the Ripley City Recorder, being marked and designated as the *International Fuel Gas Code*,² 2018 edition, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of the City of Ripley, Tennessee, regulating and governing fuel gas systems and gas-fired appliances as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said fuel gas code on file in the office of the Ripley City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, deletions, and changes, if any, prescribed in § 12-402 of this chapter.

12-402. Modifications. The following sections of the *International Fuel Gas Code*, 2018 edition, are hereby revised as follows:

(1) The City of Ripley shall be inserted in the blanks referring to the name of the jurisdiction.

(2) Add the following text to Section 106.5.3: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) The fee schedule specified in Section 106.6 and 106.6.2 shall be as periodically set by ordinance of the board of mayor and aldermen.

(4) In Section 106.6.3 paragraphs #2 and #3 are deleted.

¹Municipal code reference

Gas system administration: title 19, chapter 2.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

(5) In Section 108.4, the word "misdemeanor" shall be inserted in the appropriate blanks, and a maximum fine of fifty dollars (\$50.00) shall be specified; all references to imprisonment are deleted.

(6) In Section 108.5, "\$50.00" shall be inserted into the blanks specifying the maximum fine for violation of the code.

12-403. Use of existing piping and appliances. Notwithstanding any provision in the gas code to the contrary, consumer's piping installed prior to the adoption of the gas code 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 the gas code.

12-404. Available in recorder's office. Pursuant to the requirements of § 6-54-501 *Tennessee Code Annotated*, one (1) copy of the *International Fuel Gas Code*, 2018 edition, has been placed on file in the office of the Ripley City Recorder and shall be kept there for the use and inspection of the public during normal business hours.

12-205. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the fuel gas code as herein adopted by reference and modified.

CHAPTER 5

RESIDENTIAL CODE

SECTION

12-501. International Residential Code adopted.

12-502. Modifications.

12-503. Permit fees.

12-504. Nonconforming premises not to be rented or leased or furnished with utilities.

12-505. Available in recorder's office.

12-506. Violations and penalty.

12-501. International Residential Code adopted. That a certain document, one (1) copy of which is on file in the office of the Ripley City Recorder, being marked and designated as the *International Residential Code*,¹ 2018 edition, including Appendices M and N, as published by the International Code Council, be and is hereby adopted as the Residential Code of the City of Ripley, Tennessee, regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal, and demolition of detached one- and two-family dwellings and multiple single family dwellings (townhouses) not more than three (3) stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code on file in the office of the Ripley City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, deletions, and changes, if any, prescribed in § 12-502 this chapter.

12-502. Modifications. The following sections of the *International Residential Code*, 2018 edition, are hereby revised as follows:

(1) The City of Ripley shall be inserted in the blanks referring to the name of the jurisdiction.

(2) Add the following text to Section R105.5: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."

(3) The following design criteria will be inserted in the blanks for design criteria of Table R301.2 (1).

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

- a. Ground Snow Load- 15
- b. Wind Speed-115
- c. No Topographic wind effects
- d. No special wind region
- e. No windborne debris zone
- f. Seismic Design Category- D1
- g. Weathering Index for Concrete- Moderate
- h. Frost Line Depth- 12"
- I. Termite Infestation probability- Heavy (Local amendment)
- j. Winter design temperature- Zone 3 IECC
- k. Ice Barrier Underlayment requirement-No
- l. Flood Hazard- Per most recent FEMA Map
- m. Air Freeze Index- Not applicable
- n. Mean Annual Temp- Not applicable
- (4) Delete Section R313 with no substitutions.
- (5) Delete Table N1102.1.2 "Insulation and Fenestration Requirements by Component" and insert Table 402.1.1 2009 International Energy Code "Insulation and Fenestration Requirements by Component," which may be found at the end of this chapter.*
- (6) Delete Section N1102.4.1.2 "Testing" with no substitutions.
- (7) Add the following to Section N1103.3.3 with no substitutions.
3. Visual Inspection.

12-503. Permit fees. All building permit fees are set forth in a "schedule of fees"¹ as authorized and approved from time to time by ordinance of the board of mayor and aldermen.

12-504. Nonconforming premises not to be rented or leased or furnished with utilities. It is a misdemeanor for any owner or his agent to rent or lease to another any dwelling unit in the City of Ripley, Tennessee, until and unless such dwelling unit conforms to the building code and the building code enforcement officer issues a certificate to that effect.

It is also a misdemeanor for any person to lease, or rent from another, or occupy, any dwelling unit unless said dwelling conforms to the building code and the building code enforcement officer issues a certificate to that effect.

It is also a misdemeanor for any person, firm or corporation to furnish or connect or turn on any utilities such as gas, water, or electricity to the occupant of any dwelling which has been vacated just prior to the occupancy by such occupant unless said dwelling conforms to the building code and the building code enforcement officer has issued a certificate that said dwelling conforms to

¹The schedule of fees for building permits, and any amendments thereto, may be found in the recorder's office.

said code. The building code enforcement officer is hereby authorized and directed to inspect all vacated buildings and if same comply with the provisions of the building code they are to execute a certificate to that effect and to notify the various utility purveyors. If said dwelling does not conform to the building code then they shall notify the owner thereof, or his agent, of such deficiencies.

Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor and fined under the general penalty clause for the Ripley Municipal Code. In addition, the building code enforcement officer is hereby authorized and directed to file suit for an injunction to require compliance with this chapter. (modified)

12-505. Available in recorder's office. Pursuant to the requirements of § 6-54-502 Tennessee Code Annotated, one (1) copy of the *International Residential Code*, 2018 edition, has been placed on file in the office of the Ripley City Recorder and shall be kept there for the use and inspection of the public during normal business hours.

12-506. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the residential code as herein adopted by reference and modified.

TABLE 402.1.1*

INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT

CHAPTER 4
RESIDENTIAL ENERGY EFFICIENCYSECTION 401
GENERAL

401.1 Scope. This chapter applies to residential buildings.

401.2 Compliance. Projects shall comply with Sections 401, 402.4, 402.5, and 403.1, 403.2.2, 403.2.3, and 403.3 through 403.9 (referred to as the mandatory provisions) and either:

1. Sections 402.1 through 402.3, 403.2.1 and 404.1 (prescriptive); or
2. Section 405 (performance).

401.3 Certificate. A permanent certificate shall be posted on or in the electrical distribution panel. The certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label or other required labels. The certificate shall be completed by the builder or registered design professional. The certificate shall list the predominant *R*-values of insulation installed in or on ceiling/roof, walls, foundation (slab, basement wall, crawlspace wall and/or floor) and ducts outside conditioned spaces; *U*-factors for fenestration and the solar heat gain coefficient (SHGC) of fenestration. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the types and efficiencies of heating, cooling and service water heating equipment.

Where a gas-fired unvented room heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall list "gas-fired unvented room heater," "electric furnace" or "baseboard electric heater," as appropriate. An efficiency shall not be listed for gas-fired unvented room heaters, electric furnaces or electric baseboard heaters.

SECTION 402
BUILDING THERMAL ENVELOPE

402.1 General (Prescriptive).

402.1.1 Insulation and fenestration criteria. The building thermal envelope shall meet the requirements of Table 402.1.1 based on the climate zone specified in Chapter 3.

402.1.2 *R*-value computation. Insulation material used in layers, such as framing cavity insulation and insulating sheathing, shall be summed to compute the component *R*-value. The manufacturer's settled *R*-value shall be used for blown insulation. Computed *R*-values shall not include an *R*-value for other building materials or air films.

TABLE 402.1.1
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT*

CLIMATE ZONE	FENESTRATION U-FACTOR ^a	SKYLIGHT ^b U-FACTOR	GLAZED FENESTRATION SHGC ^{c, d}	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE ^e	FLOOR R-VALUE	BASEMENT ^f WALL R-VALUE	SLAB ^g R-VALUE & DEPTH	CRAWL SPACE ^h WALL R-VALUE
1	1.2	0.75	0.30	30	13	3/4	13	0	0	0
2	0.65 ⁱ	0.75	0.30	30	13	4/6	13	0	0	0
3	0.50 ^j	0.65	0.30	30	13	5/8	19	5/13 ^k	0	5/13
4 except Marine	0.35	0.60	NR	38	13	5/10	19	10/13	10, 2 ft	10/13
5 and Marine 4	0.35	0.60	NR	38	20 or 13+5 ^l	13/17	30 ^m	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	20 or 13+5 ^l	15/19	30 ^m	15/19	10, 4 ft	10/13
7 and 8	0.35	0.60	NR	49	21	19/21	38 ^m	15/19	10, 4 ft	10/13

For SI: 1 foot = 304.8 mm.

a. *R*-values are minimums. *U*-factors and SHGC are maximums. R-19 batts compressed into a nominal 2 x 6 framing cavity such that the *R*-value is reduced by R-1 or more shall be marked with the compressed batt *R*-value in addition to the full thickness *R*-value.

b. The fenestration *U*-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

c. "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

d. R-5 shall be added to the required slab edge *R*-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less in Zones 1 through 3 for heated slabs.

e. There are no SHGC requirements in the Marine Zone.

f. Basement wall insulation is not required in warm-humid locations as defined by Figure 301.1 and Table 301.1.

g. Or insulation sufficient to fill the framing cavity, R-19 minimum.

h. "13+5" means R-13 cavity insulation plus R-5 insulated sheathing. If structural sheathing covers 25 percent or less of the exterior, insulating sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25 percent of exterior, structural sheathing shall be supplemented with insulated sheathing of at least R-2.

i. The second *R*-value applies when more than half the insulation is on the interior of the mass wall.

j. For impact rated fenestration complying with Section R301.2.1.2 of the *International Residential Code* or Section 1608.1.2 of the *International Building Code*, the maximum *U*-factor shall be 0.75 in Zone 2 and 0.65 in Zone 3.

CHAPTER 6

ENERGY CONSERVATION CODE¹

SECTION

- 12-601. International Energy Conservation Code adopted.
- 12-602. Modifications.
- 12-603. Available in recorder's office.
- 12-604. Violations and penalty.

12-601. International Energy Conservation Code adopted. That a certain document, one (1) of which is on file in the office of the City Recorder of City of Ripley, being marked and designated as the *International Energy Conservation Code*,² 2018 edition, and is hereby adopted as the Energy Conservation Code of the City of Ripley, in the State of Tennessee for regulating and governing energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said energy conservation code on file in the office of the City of Ripley are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in § 12-602 of this chapter.

12-602. Modifications. The following sections of the *International Energy Conservation Code*, 2018 edition, are hereby revised as follows:

- (1) The City of Ripley shall be inserted in the blanks referring to the name of the jurisdiction.
- (2) Add the following text to Section 403.2.2.
- (3) Visual inspection.

12-603. Available in recorder's office. Pursuant to the requirements of § 6-54-502 *Tennessee Code Annotated*, one (1) copy of the *International Energy Conservation Code*, 2018 edition, has been placed on file in the office of the

¹Municipal 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.

²Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

Ripley City Recorder and shall be kept there for the use and inspection of the public during normal business hours.

12-604. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the energy conservation code as herein adopted by reference and modified.

CHAPTER 7

MECHANICAL CODE

SECTION

- 12-701. International Mechanical Code adopted.
- 12-702. Modifications.
- 12-703. Available in recorder's office.
- 12-704. Violations and penalty.

12-701. International Mechanical Code adopted. That a certain document, one (1) copy of which is on file in the office of the Ripley City Recorder, being marked and designated as the *International Mechanical Code*,¹ 2018 edition, including Appendix A, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Ripley, Tennessee, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, penalties, conditions and terms of said mechanical code on file in the office of the Ripley City Recorder are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, deletions, and changes, if any, prescribed in § 12-702 of this chapter.

12-702. Modifications. The following sections of the *International Mechanical Code*, 2018 edition, are hereby revised as follows:

- (1) The City of Ripley shall be inserted in the blanks referring to the name of the jurisdiction.
- (2) Add the following text to Section 106.4.3: "Any work which has not had an inspection within 180 days from issuance of the permit or has not had any subsequent required inspections within 180 days from previous inspections will be deemed that the work has been suspended or abandoned and the permit shall become invalid."
- (3) The fee schedule specified in Sections 106.6 and 106.5.2 shall be as periodically set by the Ripley Board of Mayor and Aldermen.
- (4) Delete Section 106.5.3 with no substitution
- (5) In Section 108.5, "\$50.00" shall be inserted into the blanks specifying the maximum fine for violation of the code.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

12-703. Available in recorder's office. Pursuant to the requirements of § 6-54-502 *Tennessee Code Annotated*, one (1) copy of the *International Mechanical Code*, 2018 edition, has been placed on file in the office of the Ripley City Recorder and shall be kept there for the use and inspection of the public during normal business hours.

12-704. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the mechanical code as herein adopted by reference and modified.

CHAPTER 8

PROPERTY MAINTENANCE CODE

SECTION

- 12-801. International Property Maintenance Code adopted.
- 12-802. Modifications.
- 12-803. Violations and penalty.

12-801. International Property Maintenance Code adopted. The *International Property Maintenance Code*, 2018 edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the City of Ripley, Tennessee, and made a part hereof as if fully set out herein verbatim, for regulating premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance, and to regulate the responsibilities of owners, operators and occupants, the occupancy of existing structures and premises, and for administration, enforcement and penalties.

12-802. Modifications. The official code of the City of Ripley be and is hereby amended by inserting the wording eight (8) inches to the allowable height in inches, section of 302.4 Weeds of the *International Property Maintenance Code*, 2018.

12-803. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the property maintenance code as herein adopted.

CHAPTER 9

SWIMMING POOL AND SPA CODE

SECTION

- 12-901. International Swimming Pool and Spa Code adopted.
- 12-902. Modifications.
- 12-903. Available in recorder's office.
- 12-904. Violations and penalty.

12-901. International Swimming Pool and Spa Code adopted.

Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-516, and for the purpose of regulating the minimum requirements for the design, construction, alteration, repair and maintenance of swimming pools, spas, hot tubs and aquatic facilities, the *International Swimming Pool and Spa Code*,¹ 2018 edition, or any subsequent edition, as prepared by the International Code Council, is hereby adopted and incorporated by reference as part of this code except as otherwise specifically stated in the chapter and is hereinafter referred to as the swimming pool code.

12-902. Modifications. Whenever the swimming pool and spa code refers to the "chief appointing authority," the "chief administrator" or the "codes enforcement officer" it shall mean the designated official in the City of Ripley who has duties corresponding to those of the named official.

12-903. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the swimming pool code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.

12-904. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the swimming pool and spa code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

¹Copies of this code (and any amendments) may be purchased from the International Code Council, 900 Montclair Road, Birmingham, Alabama 35213.

CHAPTER 10

ADMINISTRATIVE HEARING OFFICER

SECTION

- 12-1001. Administrative hearing officer.
- 12-1002. Communication by administrative hearing officer and parties.
- 12-1003. Appearance by parties and/or counsel.
- 12-1004. Pre-hearing conference and orders.
- 12-1005. Appointment of administrative hearing officer/administrative law judge.
- 12-1006. Training and continuing education.
- 12-1007. Jurisdiction not exclusive.
- 12-1008. Citations for violations--written notice.
- 12-1009. Review of citation--levy of fines.
- 12-1010. Party in default.
- 12-1011. Petitions for intervention.
- 12-1012. Regulating course of proceedings--hearing open to public.
- 12-1013. Evidence and affidavits; notice.
- 12-1014. Final orders.
- 12-1015. Final order effective date.
- 12-1016. Collection of fines, judgments and debts.
- 12-1017. Judicial review of final order.
- 12-1018. Appeal to court of appeals.

12-1001. Administrative hearing officer. (1) In accordance with *Tennessee Code Annotated*, title 6, chapter 54, part 10, there is hereby created the office of administrative hearing officer to hear violations of any of the provisions codified in the Ripley Municipal Code relating to building and property maintenance including:

- (a) Locally adopted building codes;
- (b) Locally adopted residential codes;
- (c) Locally adopted plumbing codes;
- (d) Locally adopted electrical codes;
- (e) Locally adopted gas codes;
- (f) Locally adopted mechanical codes;
- (g) Locally adopted energy codes;
- (h) Locally adopted property maintenance codes;
- (I) Locally adopted zoning codes; and
- (j) All ordinances regulating any subject matter commonly found in the above-described codes.

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) enforced by deputy building inspector pursuant to *Tennessee Code Annotated*, §68-120-101(f).

The utilization of the administrative hearing officer shall be at the discretion of the city recorder and shall be an alternative to the enforcement in the City of Ripley Municipal Court.

(2) There is hereby created one (1) administrative hearing officer(s) position to be appointed pursuant to § 12-1005 below.

(3) The amount of compensation for the administrative hearing officer shall be approved by the Board of Mayor and Aldermen of the City of Ripley, Tennessee.

(4) Clerical and administrative support for the office of administrative hearing officer shall be provided as determined by the city recorder.

(5) The administrative hearing officer shall perform all of the duties and abide by all of the requirements provided in *Tennessee Code Annotated*, title 6, chapter 54, section 1001, *et seq.* (Ord. #548, May 2022)

12-1002. 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. (Ord. #548, May 2022)

12-1003. 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. (Ord. #548, May 2022)

12-1004. 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 prehearing order, based on the pleadings, to regulate the conduct of the proceedings. (Ord. #548, May 2022)

12-1005. Appointment of administrative hearing officer/administrative law judge. (1) The administrative hearing officer shall be appointed by the board of mayor and aldermen and shall serve at the pleasure of the board of mayor and aldermen. Such administrative hearing officer may be hired on a part-time or full-time basis, by contract or by interlocal agreement with one (1) or more eligible municipalities.

- (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

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 training or continuing education requirements of subsections 6-54-1007(a) and (b). (Ord. #548, May 2022)

12-1006. Training and continuing education. The administrative hearing officer shall comply with the training and education requirements as set forth in *Tennessee Code Annotated*, § 6-54-1007, and as may be amended. (Ord. #548, May 2022)

12-1007. Jurisdiction not exclusive. The power and authority vested in the office of administrative hearing is not exclusive and does not terminate or diminish any other existing municipal power or authority. The board of mayor and aldermen may direct a municipal officer or employee to develop criteria for determining when to exercise administrative enforcement. (Ord. #548, May 2022)

12-1008. 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. (Ord. #548, May 2022)

12-1009. Review of citation–levy of fines. (1) Upon receipt of a citation issued pursuant to §§ 12-1007 and 12-1008, the 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 the administrative hearing officer program, "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 the administrative hearing officer program, "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) or 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. (Ord. #548, May 2022)

12-1010. 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. (Ord. #548, May 2022)

12-1011. 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. (Ord. #548, May 2022)

12-1012. 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 cross-examination, 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 *Tennessee Code Annotated*, title 8, chapter 44, 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. (Ord. #548, May 2022)

12-1013. Evidence and affidavits; notice. (1) In an administrative hearing:

(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 cross-examination 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 (2) 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). (Ord. #548, May 2022)

12-1014. Final orders. (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 (1) 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. (Ord. #548, May 2022)

12-1015. 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. (Ord. #548, May 2022)

12-1016. 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. (Ord. #548, May 2022)

12-1017. Judicial review of final order. (1) A person who is aggrieved by a final decision in a contested case is entitled to judicial review pursuant to *Tennessee Code Annotated*, title 6, chapter 54, part 10, 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. (Ord. #548, May 2022)

12-1018. 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. (Ord. #548, May 2022)

TITLE 13**PROPERTY MAINTENANCE REGULATIONS¹****CHAPTER**

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

CHAPTER 1**MISCELLANEOUS****SECTION**

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.

13-101. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1994 Code, § 13-101)

13-102. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes. (1994 Code, § 13-102)

13-103. Weeds and grass. (1) 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

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107

Property maintenance code: title 12.

Wastewater treatment: title 18, chapter 2.

order by the city recorder to cut such vegetation when it has reached a height of over eight inches (8").

(2) Every owner and tenant of property across which a city right-of-way or easement exists shall mow and maintain the right-of-way or area described by the easement in accordance with the provisions of subsection (1).

(3) The notice to owner or tenant shall be deemed to be seasonal, so that only one (1) notice is required for each ninety (90) day period prior to the assessment of a penalty.

(4) In addition to the applicable civil penalty, an owner or tenant may be assessed a mowing fee consistent with a schedule of fees adopted by the board of mayor and aldermen. (1994 Code, § 13-103, modified)

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

(2) Designation of public officer or department. The board of mayor and aldermen designates the code enforcement officer to enforce the provisions of this section.

(3) Notice to property owner. It shall be the duty of the code enforcement officer to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by United States Mail, by certified mail, addressed to the last known address of the owner of record, or hand delivered with the deliverer obtaining the owner's signature confirming receipt of the notice. Any refusal to sign may be noted on the notice and shall also constitute confirmation of receipt. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

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

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

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

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

(4) Notice by publication. When an attempt at notification by United States mail fails or no valid last known address exists for the owner of record, the city may publish the notice in a newspaper of general circulation in the county where the property sits for no less than two (2) consecutive issues. For purposes of this section, such publication shall constitute receipt of notice effective on the date of the second publication of the notice.

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

(6) Clean-up of owner-occupied property. When the owner of an owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards, and the costs thereof shall be assessed against the owner of the property. The provisions of subsection (5) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the city must wait until cumulative charges for

remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (5) for these charges.

(7) Appeal. The owner of record who is aggrieved by the determination and order of the code enforcement officer¹ may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the city recorder within ten (10) days following the receipt of the notice issued pursuant to subsections (3) and (4) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(8) Judicial review. Any person aggrieved by an order or act of the city under this section may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(9) Supplemental nature of this section. The provision of this section are in addition and supplemental to, and not in substitution for any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the city to proceed against an owner, tenant or occupant of property who has created maintained, or permitted to be maintained on such property the growth of trees vines grass, weed underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provision of this municipal code of ordinances or any other applicable law. (Ord. #538, June 2020)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the animal control officer and dispose of such animal in such manner as the animal control officer shall direct. (1994 Code, § 13-105, modified)

13-106. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1994 Code, § 13-106)

¹References to the codes enforcement officer are interchangeable with the administrative hearing officer.

CHAPTER 2

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.

13-201. Findings of board. Pursuant to *Tennessee Code Annotated*, §§ 13-21-101, *et seq.*, the board of mayor and aldermen finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (1994 Code, § 13-201)

13-202. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

(2) "Governing body" shall mean the board of mayor and aldermen charged with governing the city.

(3) "Municipality" shall mean the City of Ripley, Tennessee, and the areas encompassed within existing city limits or as hereafter annexed.

(4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.

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

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

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

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (1994 Code, § 13-202)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the codes enforcement officer of the city to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the codes enforcement officer. (1994 Code, § 13-203, modified)

13-204. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer. (1994 Code, § 13-204)

13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation

or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

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

(2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (1994 Code, § 13-205)

13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful." (1994 Code, § 13-206)

13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished. (1994 Code, § 13-207)

13-208. Lien for expenses; sale of salvage materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the office of the Register of Deeds of Lauderdale County, Tennessee be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action

for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Lauderdale County, Tennessee by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the person found to be entitled thereto by final order or decree of such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Ripley to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1994 Code, § 13-208)

13-209. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Ripley. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanness. (1994 Code, § 13-209)

13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed for record in the Register's Office of Lauderdale County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1994 Code, § 13-210)

13-211. Enjoining enforcement of orders. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit,

issue a temporary injunction restraining the public officer pending the final disposition of the cause; provided, however, that within sixty (60) days after the posting and service of the order of the public officer, such person shall file such bill in the court.

The remedy provided herein shall be the exclusive remedy and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (1994 Code, § 13-211)

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

(1) To investigate conditions of the structures in the city in order to determine which structures therein are unfit for human occupation or use;

(2) To administer oaths, affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examination, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession;

(4) To appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of this chapter; and

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1994 Code, § 13-212)

13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (1994 Code, § 13-213)

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (1994 Code, § 13-214)

CHAPTER 3

JUNKYARDS¹

SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Permits and fees.

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

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

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

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

(5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the city. (1994 Code, § 13-301)

13-302. Junkyard screening. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter. (1994 Code, § 13-302)

¹Municipal code reference

Refuse and trash disposal: title 17.

13-303. Screening methods. The following methods and materials for screening are given for consideration only:

(1) Landscape planting. The planting of trees, shrubs, etc., of sufficient size and density to provide a year round effective screen. Plants of the evergreen variety are recommended.

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

(3) Architectural barriers. The utilization of:

(a) Panel fences made of metal, plastic, fiberglass, or plywood;

(b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative; or

(c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.

(4) Natural objects. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen. (1994 Code, § 13-303)

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

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

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

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

(4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area. (1994 Code, § 13-304)

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

If not replaced within sixty (60) days the city may replace said screening and require payment upon demand. (1994 Code, § 13-305)

13-306. Utilization of highway right-of-way. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition. (1994 Code, § 13-306)

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

- (1) The junkyard must continue to be lawfully maintained.
- (2) There must be existing property rights in the junk or junkyard.
- (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason.

If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the city.

- (5) The junkyard may not be extended or enlarged. (1994 Code, § 13-307)

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

- (1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The city's fiscal year begins on July 1 and ends on June 30 the year next following.

- (2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.

- (3) All applications for an original or renewal permit shall be made on a form prescribed by the city.

- (4) Permits shall be issued only to those junkyards that are in compliance with these rules.

- (5) A permit is valid only while held by the permittee and for the location for which it is issued. (1994 Code, § 13-308)

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

13-401. Definitions.

13-402. Violations a civil offense.

13-403. Exceptions.

13-404. Enforcement.

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

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

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

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

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

(b) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one (1) or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:

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

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

(iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including,

but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows;

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

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

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

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

(viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle. (1994 Code, § 13-401)

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

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

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

(3) To park, store, keep, maintain on private property a junk vehicle. (1994 Code, § 13-402)

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

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

zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

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

(2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the city. (1994 Code, § 13-403)

13-404. Enforcement. Pursuant to *Tennessee Code Annotated*, § 7-63-101, the codes enforcement officer is authorized to issue ordinance summons for violations of this ordinance on private property. The code enforcement officer shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the code enforcement officer finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the code enforcement officer may:

(1) Request the city judge to issue a summons, or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, § 7-63-101 *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.

In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property.

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. FLOODPLAIN ZONING REGULATIONS.
4. MOBILE HOMES AND TRAILERS.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
14-102. Organization, powers, duties, etc.

14-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and an alderman selected by the board of mayor and aldermen; the other five (5) members shall be appointed by the mayor. All members of the planning commission shall serve as such without compensation. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the alderman shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1994 Code, § 14-101)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions and duties in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13. (1994 Code, § 14-102)

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 Ripley shall be governed by the "Zoning Ordinance of Ripley, Tennessee," and any amendments thereto.¹ (1994 Code, § 14-201)

¹Ord. #166, dated Dec. 4, 1962 and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

FLOODPLAIN ZONING REGULATIONS

SECTION

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

14-301. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in *Tennessee Code Annotated*, § 6-2-201 delegated the responsibility to units of local government to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City of Ripley, Tennessee, Mayor and its Legislative Body do ordain as follows:

(2) Findings of fact:

(a) The City of Ripley, Tennessee, mayor and its legislative body wishes to (maintain/establish) eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, § 60.3.

(b) Areas of the City of Ripley, 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 chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas. This chapter 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 chapter 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 establish/maintain eligibility for participation in the NFIP.

14-302. Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted as to give them the meaning they have in common usage and to give this chapter 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 chapter, 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 chapter 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." Base Flood means the flood having a one percent 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.

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

(8) "Building" see "structure."

(9) "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.

(10) "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.

(11) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with § 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.

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

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

(14) "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.

(15) "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.

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

(17) "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.

(18) "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 or greater chance of occurrence in any given year.

(19) 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.

(20) "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.

(21) "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.

(22) "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.

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

(24) "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.

(25) "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.

(26) "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.

(27) "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.

(27) "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.

(28) "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.

(29) "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.

(30) "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.

(31) "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.

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

(33) 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 Ripley, 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.

(35) "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.

(36) "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.

(37) "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 chapter.

(38) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

(39) "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.

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

(41) "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 chapter, 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.

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

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

(44) "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 the ordinance creating this chapter or the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

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

(46) "100-year flood" see "base flood."

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

(48) "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.

(49) "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.

(50) "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.

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

(52) "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.

(53) "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.

(54) "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.

(55) "State coordinating agency" means the Tennessee Department of Economic and Community Development, 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.

(56) "Structure," for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(57) "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.

(58) "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."

(59) "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.

(60) "Variance" is a grant of relief from the requirements of this chapter.

(61) "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 chapter is presumed to be in violation until such time as that documentation is provided.

(62) "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.

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the City of Ripley, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Ripley, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) presently in effect, as adopted by reference and declared to be a part of this chapter.

(3) Requirement for development permit. A development permit shall be required in conformity with this chapter 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 chapter is not intended to repeal, abrogate, or impair any existing easements, covenants or deed restrictions. However, where this chapter 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 chapter 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 chapter 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 chapter shall not create liability on the part of the City of Ripley, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Any person who violates this chapter 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 Ripley, Tennessee from taking such other lawful actions to prevent or remedy any violation. (modified)

14-304. Administration. (1) Designation of ordinance administrator. The code enforcement officer is hereby appointed as the administrator to implement the provisions of this chapter.

(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 chapter.

(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 chapter.

(iii) A FEMA Floodproofing Certificate from a Tennessee registered professional engineer or architect that the proposed non-residential floodproofed building will meet the floodproofing criteria in § 14-305(1) and (2).

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

(b) Construction stage: Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a Tennessee registered land surveyor and certified by same. The Administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a 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 chapter have been satisfied, and that proposed building sites will be reasonably safe from flooding.

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

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

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

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

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with § 14-304(2).

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with § 14-304(2).

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with § 14-304(2).

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

location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(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 Ripley, Tennessee FIRM meet the requirements of this chapter.

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

14-305. 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 chapter, shall meet the requirements of "new construction" as contained in this chapter;

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

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

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-305(2);

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

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in 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 § 14-305(1), are required:

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

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) 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 § 14-302). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

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 § 14-304(2).

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

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade;

- (C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- (ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.
- (iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-305(2).
- (d) Standards for manufactured homes and recreational vehicles:
 - (i) All manufactured homes placed, or substantially improved, on:
 - (A) Individual lots or parcels,
 - (B) In expansions to existing manufactured home parks or subdivisions, or
 - (C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.
 - (ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:
 - (A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation or
 - (B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet (3') in height above the highest adjacent grade (as defined in § 14-302).
 - (iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of § 14-305(1) and (2).
 - (iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (v) All recreational vehicles placed in an identified special flood hazard area must either:
 - (A) Be on the site for fewer than one hundred eighty (180) consecutive days;
 - (B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed,

on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;

(C) The recreational vehicle must meet all the requirements for 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 (5) acres, whichever is the lesser, include within such proposals Base Flood Elevation data (see § 15-05(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2), are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of flood waters, 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 Ripley, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

(4) 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 § 14-303(2), where streams exist with base flood data provided but where no floodways have been designated (Zones AE), the following provisions apply:

(a) No encroachments, including fill material, new construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2).

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-303(2), streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see (b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-305(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2).

Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(1).

(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 Ripley, Tennessee. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of § 14-305(1) and (2). Within approximate A Zones, require that those subsections of § 14-305(2) dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(5) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to those set forth in § 14-305(1) and (2), apply:

(a) All new construction and substantial improvements of residential and 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 § 14-305(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 chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-304(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-303(2) of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-304 and 14-305 shall apply.

(8) Standards for unmapped streams. Located within the City of Ripley, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone, and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with §§ 14-304 and 14-305..

14-306. 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, two, and three 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 (amount) dollars 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 (number of) 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 chapter.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The City of Ripley, Tennessee Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this chapter.

(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 chapter to preserve the historic character and design of the structure.

(iii) 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 chapter, and:

(A) The danger that materials may be swept onto other property to the injury of others;

(B) The danger to life and property due to flooding or erosion;

(C) The susceptibility of the proposed facility and its contents to flood damage;

(D) The importance of the services provided by the proposed facility to the community;

(E) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(F) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(G) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(H) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(I) 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;

(J) 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.

(iv) Upon consideration of the factors listed above, and the purposes of this chapter, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

(v) 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 § 14-306(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for

flood insurance (as high as twenty-five dollars (\$25.00) for one hundred 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.

14-307. Legal status provisions. Conflict with other ordinances. In case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the City of Ripley, Tennessee, the most restrictive shall in all cases apply.

CHAPTER 4

MOBILE HOMES AND TRAILERS

SECTION

14-401. Prohibited on commercial property.

14-402. Temporary construction trailers.

14-403. Mobile homes or trailers on commercial property prior to May 1991.

14-401. Prohibited on commercial property. It shall be unlawful for any person, business, firm, or corporation to place any mobile homes or trailers for any use on any lot or parcel of land zoned for commercial use in the City of Ripley unless otherwise provided within the code. (1994 Code, § 14-401, modified)

14-402. Temporary construction trailers. This chapter shall not apply to any temporary construction trailers placed on any lot for use during the permitted construction period. Said temporary construction trailer shall be removed as soon as practicable following completion of the construction project. (1994 Code, § 14-402)

14-403. Mobile homes or trailers on commercial property prior to May 1991. This chapter shall not apply to any mobile homes or trailers permanently affixed to any commercial lot or parcel of land on the effective date of this ordinance. Upon removal of the existing mobile home or trailer, no other replacement mobile home or trailer shall be allowed on said lot or parcel. (1994 Code, § 14-403)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.

¹Municipal code reference

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

²State law references

Under *Tennessee Code Annotated*, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by *Tennessee Code Annotated*, § 55-10-401; failing to stop after a traffic accident, as prohibited by *Tennessee Code Annotated*, §§ 55-10-101, *et seq.*; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-7-116; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Vehicles and operators to be licensed.
- 15-118. Passing.
- 15-119. Damaging pavements.
- 15-120. Motorcycles, etc.
- 15-121. Striking city owned property prohibited.
- 15-122. Vehicle to be under driver's control.
- 15-123. Weight limits for trucks.
- 15-124. Adoption of state traffic statutes.
- 15-125. Compliance with financial responsibility law required.
- 15-126. Basketball goals alongside or within public rights-of-way.

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. (1994 Code, § 15-101)

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. (1994 Code, § 15-102)

15-103. One-way streets. On any street for one-way traffic with posted signs indicating the authorized direction of travel at all intersections offering access thereto, no person shall operate any vehicle except in the indicated direction. (1994 Code, § 15-103)

15-104. Unlaned streets. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:

- (a) When lawfully overtaking and passing another vehicle proceeding in the same direction;
- (b) When the right half of a roadway is closed to traffic while under construction or repair; or
- (c) Upon a roadway designated and signposted by the city for one-way traffic.

(2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1994 Code, § 15-104)

15-105. Laned streets. On streets marked with traffic lanes, it shall be unlawful for the operator of any vehicle to fail or refuse to keep his vehicle within the boundaries of the proper lane for his direction of travel except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

On two (2) lane and three (3) lane streets the proper lane for travel shall be the right hand lane unless otherwise clearly marked. On streets with four (4) or more lanes, either of the right hand lanes shall be available for use except that traffic moving at less than the normal rate of speed shall use the extreme right hand lane. On one-way streets either lane may be lawfully used in the absence of markings to the contrary. (1994 Code, § 15-105)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1994 Code, § 15-106)

15-107. 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 city. (1994 Code, § 15-107)

15-108. 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*,² 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 city. (1994 Code, § 15-108)

¹Municipal code references

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

²This manual is available online at mutcd.fhwa.dot.gov.

15-109. Unauthorized traffic-control signs, etc. No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking or device or any railroad sign or signal. (1994 Code, § 15-109)

15-110. 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. (1994 Code, § 15-110)

15-111. 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. (1994 Code, § 15-111)

15-112. 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. (1994 Code, § 15-112)

15-113. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley or other public way or place. (1994 Code, § 15-113)

15-114. 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. (1994 Code, § 15-114)

15-115. 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. (1994 Code, § 15-115)

15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1994 Code, § 15-116)

15-117. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the Tennessee Motor Vehicle Title and Registration Law or the Uniform Motor Vehicle Operators' and Chauffeurs' License Law. (1994 Code, § 15-118)

15-118. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

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. (1994 Code, § 15-119)

15-119. 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. (1994 Code, § 15-120)

15-120. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc. (1) Definitions For the purpose of the application of this section, the following words shall have the definitions indicated:

(a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.

(b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);

(c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.

(2) Every person riding or operating a bicycle, motor cycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city/town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.

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

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

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

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

(7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:

(i) Except as provided in subdivisions (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;

(ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;

(iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and

(iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Foundation.

(b) This section does not apply to persons riding:

(i) Within an enclosed cab;

(ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;

(iii) Golf carts; or

(iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.

(8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

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

15-121. Striking city owned property prohibited. It shall be unlawful for any person to drive over or strike any fixed object, including light posts, parked automobiles, utility poles, buildings, street signs or any sign lawfully placed. (1994 Code, § 15-122)

15-122. Vehicle to be under driver's control. It shall be unlawful for any person to drive upon the streets of Ripley, Tennessee, or state and county highways within said city limits, at any time when their motor vehicle is not under complete control of the driver. (1994 Code, § 15-123)

15-123. Weight limits for trucks. No type of truck or other vehicle shall exceed posted weight limits on city streets or roadways exclusive of point-of-delivery and city service trucks. (1994 Code, § 15-124, modified)

15-124. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the City of Ripley adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the City of Ripley adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 by reference as if fully set forth in this section.

15-125. Compliance with financial responsibility law required.

(1) Every vehicle operated within the corporate limits must be in compliance with the financial responsibility law.

(2) At the time the driver of a motor vehicle is charged with any moving violation under title 55, chapters 8 and 10, parts 1 through 5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault.

(3) For the purposes of this section, "financial responsibility" means:

(a) Documentation, such as the declaration page of an insurance policy, on insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1977, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been issued;

(b) A certificate, valid for one (1) year, issued by the commissioner of safety, stating that a cash deposit or bond in the amount required by the Tennessee Financial Responsibility Law of 1997, compiled in *Tennessee Code Annotated*, chapter 12, title 55, has been paid or filed with the commission, or has qualified as a self-insurer under *Tennessee Code Annotated*, § 55-12-111; or

(c) The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the department of safety or the interstate commerce commission, or was owned by the United States, the State of Tennessee or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

(4) **Civil offense.** The civil penalty provided by this code shall be in addition to any other penalty prescribed by the laws of this state.

(5) Evidence of compliance after violation. On or before the court date, the person charged with a violation of this section may submit evidence of compliance with this section in effect at the time of the violation. If the court is satisfied that compliance was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (1994 Code, § 15-127, modified)

15-126. Basketball goals alongside or within public rights-of-way. No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of Ripley so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of person within a public street playing basketball on such a goal shall be a violation of this section. (1994 Code, § 15-128, modified)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1994 Code, § 15-201)

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 (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1994 Code, § 15-202)

¹Municipal 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 traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1994 Code, § 15-203)

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 firefighter or police officer. (1994 Code, § 15-204)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones and near playgrounds.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of thirty (30) miles per hour except where official signs have been posted indicating other speed limits in which cases the posted speed limit shall apply. (1994 Code, § 15-301)

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. (1994 Code, § 15-302)

15-303. In school zones and near playgrounds. Pursuant to *Tennessee Code Annotated*, § 55-8-152, the city/town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

15-304. 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. (1994 Code, § 15-304)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first signaling his intention in accordance with the requirements of the state law.¹ (1994 Code, § 15-401)

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. (1994 Code, § 15-402)

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 (2) roadways. (1994 Code, § 15-403)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1994 Code, § 15-404)

15-405. U-turns. U-turns are prohibited. (1994 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. When emerging from alleys, etc.
- 15-502. To prevent obstructing an intersection.
- 15-503. At railroad crossings.
- 15-504. At "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. At pedestrian-control signals.
- 15-509. Stops to be signaled.

15-501. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1994 Code, § 15-502)

15-502. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1994 Code, § 15-503)

15-503. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen feet (15') from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

- (1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.
- (2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.
- (3) A railroad train is approaching within approximately one thousand five hundred feet (1,500') of the highway crossing and is emitting an audible signal indicating its approach.
- (4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1994 Code, § 15-504)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection, and shall remain standing until he can proceed through the intersection in safety. (1994 Code, § 15-505)

15-505. At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1994 Code, § 15-506)

15-506. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

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

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

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

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

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

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

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(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. (1994 Code, § 15-507)

15-507. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1994 Code, § 15-508)

15-508. At pedestrian-control signals. Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, 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. (1994 Code, § 15-509)

15-509. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1994 Code, § 15-510)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Parking at curb.
- 15-607. Lawful parking in parking space.
- 15-608. Parking time limited upon certain streets.
- 15-609. Presumption with respect to illegal parking.
- 15-610. Unlawful parking in residential areas.
- 15-611. Parking vehicles on city streets; restrictions.

15-601. Generally. Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the city has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1994 Code, § 15-601)

15-602. Angle parking. On those streets which have been signed or marked by the city for angle parking no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1994 Code, § 15-602)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1994 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the city, nor:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen feet (15') thereof;
- (4) Within fifteen feet (15') of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within fifty feet (50') of a railroad crossing;
- (7) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of the entrance;
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (10) Upon any bridge; or
- (11) Alongside any curb painted yellow or red by the city.
- (12) Along the rights-of-way of Highways 19 and 51. (1994 Code, § 15-604, modified)

15-605. Loading and unloading zones. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the city as a loading and unloading zone. (1994 Code, § 15-605)

15-606. Parking at curb. It shall be unlawful for any vehicle to angle park with the front tire more than six inches (6") from the curb. (1994 Code, § 15-606)

15-607. Lawful parking in parking space. The owner or operator of any vehicle shall obey the instructions of any official parking sign applicable thereto placed in accordance with this title, and other traffic ordinances of the city, unless otherwise directed by a police officer. (1994 Code, § 15-607)

15-608. Parking time limited upon certain streets. (1) The board of mayor and aldermen may establish restrictions concerning the length of time a person may park a vehicle and the hours during which those restrictions are applicable.

(2) When signs are erected giving notice thereof, no person shall park a vehicle for longer than the period indicated at any time between the specified hours. (1994 Code, § 15-608)

15-609. 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. (1994 Code, § 15-612)

15-610. Unlawful parking in residential areas. No eighteen (18) wheel tractor or trailer, either connected or separated, shall be parked on any city street in any zoned residential area in the City of Ripley. (1994 Code, § 15-613)

15-611. Parking vehicles on city streets; restrictions. (1) No truck or bus or recreational vehicle having a declared maximum gross weight, including vehicle and load, of more than twenty-six thousand pounds (26,000), or being other than of single axle construction, shall be parked or left unattended on any public street for a period of time longer than two (2) hours consecutively, except while being actively loaded or unloaded, or while such a vehicle is being used in connection with any work or service being performed within the immediate area.

(2) No vehicle of any type being used for the purpose of transporting any volatile, toxic, gaseous, explosive or flammable material shall be parked or left unattended on any public street or public right-of-way for any period of time, except while being actively loaded or unloaded, or while such vehicle is being used in connection with any work or service being performed within the immediate area.

(3) No person shall park, leave standing or store any other vehicle in any public right-of-way or upon any street within a residential zone area of the city, except those commonly referred to as passenger vehicles, or pickup trucks, one (1) ton capacity or less, and only in a manner otherwise consistent with this title.

(4) No person shall leave standing or store any equipment, machinery or material, except as provided for by subsections (1)-(3) of this section on any street or public right-of-way within a residential zone area of the city.

(5) The provisions of this section shall not be deemed to prohibit the parking of such equipment upon any street for the actual purpose of loading or unloading of goods, wares or merchandise or the accomplishment of repairs within a residential area; provided, however, "loading," "unloading," and "accomplishment of repairs," as used in this section, shall be limited to the actual time consumed in such operation.

(6) This section shall not prohibit such parking when reasonably necessitated by a breakdown or other emergency, provided the chief of police is promptly notified of the circumstances.

(7) Vehicles used for the delivery of city services or expansion of city services are specifically exempted from provisions of this section.

(8) Each day on which such violation continues shall constitute a separate offense. (Ord. #537, Dec. 2019)

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. Violations and penalty.

15-701. Issuance of traffic citations.¹ When a police officer halts a traffic violator other than for the purpose of giving a warning, and does not take such person into custody under arrest, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the city court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address. (1994 Code, § 15-701)

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. (1994 Code, § 15-702)

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.

Unless otherwise provided herein, the following fines shall be levied for the different offenses, and for these parking violations the offender may waive his right to a judicial hearing and have the charge disposed of out of court by paying the following fines, in addition to court costs:

- | | |
|----------------------|---------|
| (1) Overtime parking | \$10.00 |
| (2) Double parking | \$10.00 |

¹State law reference

Tennessee Code Annotated, §§ 7-63-101, *et seq.*

- | | | |
|-----|----------------------------|---------|
| (3) | Improper parking | \$10.00 |
| (4) | Parking in restricted zone | \$10.00 |
| (5) | Parking at fire plug | \$10.00 |
- (1994 Code, § 15-703, modified)

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested, or any vehicle which is illegally parked, abandoned, or otherwise parked so as to constitute an obstruction or hazard to normal traffic. Any vehicle left parked on any street or alley for more than seventy-two (72) consecutive hours without permission from the chief of police shall be presumed to have been abandoned if the owner cannot be located after a reasonable investigation. Such an impounded vehicle shall be stored until the owner claims it, gives satisfactory evidence of ownership, and pays all applicable fines and costs. The fee for impounding a vehicle shall be all charges incurred by the towing agency and if stored at the city impound lot storage costs of ten dollars (\$10.00) per day shall also be charged. (1994 Code, § 15-704)

15-705. Violations and penalty. Any violations of this title shall be a civil offense punishable as follows:

(1) Traffic citations and handicapped parking citations. Traffic citations and handicapped parking citations shall be punishable under the general penalty provisions of this code. These citations require a court appearance.

(2) Other parking citations. A ten dollar (\$10.00) fine shall be levied for parking citations other than handicapped parking citations. Provided the offender makes payment of the fine for a parking citation, other than a handicapped parking citation, within ten (10) days and waives his/her right to a judicial hearing at the office of the Ripley City Court Clerk, no court costs will be assessed. If a hearing is requested, court costs may be assessed, within the discretion of the Judge of the Ripley City Court.

(3) Each day a separate offense. With regard to traffic and parking citations, each day's violation constitutes a separate offense, punishable by a separate fine. (Ord. #535, Sept. 2019, modified)

TITLE 16**STREETS AND SIDEWALKS, ETC¹****CHAPTER****1. MISCELLANEOUS.****CHAPTER 1****MISCELLANEOUS****SECTION**

- 16-101. Obstructing streets, alleys or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys or sidewalks prohibited.
- 16-107. Littering streets, alleys or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Parades regulated.
- 16-110. Operation of trains at crossings regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.

16-101. Obstructing streets, alleys or sidewalks prohibited. No person shall use or occupy any portion of any public street, alley, sidewalk or right-of-way for the purpose of storing, selling or exhibiting any goods, wares, merchandise or materials. (1994 Code, § 16-101)

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 feet (14'). (1994 Code, § 16-102)

16-103. Trees, etc., obstructing view at intersections prohibited. It shall be unlawful for any property owner or occupant to have or maintain on his property any tree, hedge, billboard, or other obstruction which prevents persons driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1994 Code, § 16-103)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

16-104. Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code.¹ (1994 Code, § 16-104)

16-105. Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen. (1994 Code, § 16-105)

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. (1994 Code, § 16-106)

16-107. Littering streets, alleys or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw or allow to fall on any street, alley or sidewalk any refuse, glass, tacks or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1994 Code, § 16-107)

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. (1994 Code, § 16-108)

16-109. Parades regulated. It shall be unlawful for any club, organization or similar group to hold any parade on the public streets without some responsible representative first securing a permit from the recorder and liability insurance to cover the event. No permit shall be issued by the recorder unless such activity will not unreasonably interfere with traffic and unless such representative shall agree to see to the immediate cleaning up of all litter which shall be left on the streets as a result of the activity. Furthermore, it shall be unlawful for any person obtaining such a permit to fail to carry out his agreement to immediately clean up the resulting litter.

No vehicles or other equipment which cannot legally be driven on public streets are allowed in parades. (1994 Code, § 16-110, modified)

16-110. Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall be unlawful to stop a railroad

¹Municipal code reference

Building code: title 12, chapter 1.

train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1994 Code, § 16-111)

16-111. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead or tie any animal, or ride, push, pull or place any vehicle across or upon any sidewalk in such manner as 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. (1994 Code, § 16-112)

16-112. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley or sidewalk. (1994 Code, § 16-113)

TITLE 17**REFUSE AND TRASH DISPOSAL¹****CHAPTER****1. REFUSE.****CHAPTER 1****REFUSE****SECTION**

- 17-101. Definitions.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Solid waste service charge.
- 17-110. Garbage, litter, and refuse provisions; notice; and penalty.
- 17-111. Provisions regarding automobile graveyards.
- 17-112. Provisions regarding abandoned motor vehicles.

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." Any license or unlicensed motor vehicle of any kind, which is in a rusted, wrecked, junked, partially dismantled, inoperative or otherwise generally recognized abandoned condition, whether attended or not.

(2) "Automobile graveyard." For the purposes of this chapter "automobile graveyard" means any lot or place which is exposed to the weather and upon which more than five (5) motor vehicles of any kind, incapable of being operated, and which would not be economically practical to make operative, are placed, located or found. The term "automobile graveyard" or "automobile junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel, or nonferrous scrap and whose principal produce is scrap iron, steel, or nonferrous scrap for sale for remelting purposes only.

¹Municipal code reference

Property maintenance regulations: title 13.

(3) "Bulk garbage." Garbage, refuse, or other items too large for, or inappropriate for, refuse containers including, but not limited to:

- (a) Commercial landscaping debris;
- (b) Excess materials or debris resulting from building, restoration, remodeling, and demolition, whether generated by owner, tenant, contractor, or other entity; these include, but are not limited to: lumber, roofing material, sheetrock, insulation, cement, concrete, brick, siding material, and plumbing or lighting fixtures;
- (c) Windows.
- (d) Any object containing glass, which object is too large for the trash receptacle;
- (e) Unbagged grass clippings;
- (f) Unbagged leaves, excluding those deposited on owner's property adjacent to the curb during the months of November through March for which a request is made to the public works department for pickup;
- (g) Tires or other automotive parts, or automotive salvage;
- (h) Carpet and other flooring material; provided, however, that scraps and remnants of commercial flooring businesses which can be contained within an assigned refuse container at a place of business are excepted;
- (i) Moving or packing materials too large for the trash receptacle; and
- (j) Hazardous or toxic substances, regardless of type or quantity/volume;
- (k) Market and industrial waste;
- (l) Dead animals;
- (m) Automotive or industrial parts or fluids, regardless of size/volume;
- (n) Ashes; and
- (o) Body waste.

(4) "Garbage." Putrescible (that which is liable to decompose, rot or decay) animal and vegetable wastes resulting from the handling, preparation, cooking, and consumption of food.

(5) "Litter." Consists of refuse which is not contained or disposed of in accordance with the provisions of this chapter.

(6) "Refuse." All putrescible and non-putrescible solid waste (with the exception of items expressly identified as bulk waste) including, but not limited to, garbage and rubbish.

(7) "Sanitation officer." Public Works Department head, or any supervisor within said department. (1994 Code, § 17-101, as amended by Ord. #529, Sept. 2018, Ord. #530, Nov. 2018, and Ord. #533, June 2019)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1994 Code, § 17-101)

17-103. Storage. Each owner, tenant, or occupant shall utilize, for city trash collection, the city-issued refuse container.

17-104. Location of containers. Where alleys are used by the refuse collectors, containers shall be placed on or within six feet (6') of the alley line in such a position as not to intrude upon the traveled portion of the alley. Where streets are used by the refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no curb, at such times as shall be scheduled by the city for the collection of refuse therefrom. As soon as practicable after such containers have been emptied they shall be removed by the owner to within, or to the rear of, his premises and away from the street line until the next scheduled time for collection. (1994 Code, § 17-104)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1994 Code, § 17-105)

17-106. Collection. Bulk garbage is not subject to city collection, and disposal is the obligation of the tenant, owner, and other person depositing bulk garbage on property within the corporate limits.

All other refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (Ord. #529, Sept. 2018)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1994 Code, § 17-107)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the mayor and aldermen is expressly prohibited. (1994 Code, § 17-108)

17-109. Solid waste service charge. (1) Imposed. There is hereby imposed for the collection of solid waste and for the improvement of the general public health and environment a service charge for each dwelling unit and each commercial establishment.

RESIDENTIAL: The service charge for collection of residential solid waste shall be in the amount provided by each year's budget ordinance.

COMMERCIAL: The service charge for collection of commercial establishments shall be in the amount provided by each year's budget ordinance.

Said refuse tax shall be added to the bills of the Ripley Water Department for all customers inside the city limits each month, beginning with the September billings.

(2) Enforcement. This section shall be enforced as the collection of water bills are enforced. (1994 Code, § 17-109, modified)

17-110. Garbage, litter, and refuse provisions; notice; and penalty.

(1) Provisions. (a) It shall be unlawful for any person or entity, whether said person or entity is an owner, tenant, or otherwise, to place, leave, dump, or permit to accumulate any item(s) of bulk garbage in any city street or roadway, or on city property or any city sidewalk. It shall be unlawful for any person or entity, whether said person or entity is an owner, tenant, or otherwise, to place, leave, dump, or permit to accumulate any item(s) of bulk garbage in any other building or on any other property, for a period exceeding twenty-four (24) hours.

It shall be unlawful for any person or entity to place, leave, dump, or permit to accumulate any garbage or refuse in any building or on any property, so that same shall or may afford food or harborage for rodents, create a health hazard, or cause a public nuisance, or to place, leave, dump or permit any garbage or refuse in any city street or roadway.

(b) With the exception of brush, limbs, and branches not otherwise defined as bulk garbage, all refuse disposal shall be made in closed, city-approved refuse containers and secured in such a way as to prevent the contents from escaping therefrom. All materials within the containers shall be placed within plastic garbage bags or comparable containers, which prevent the escape of the materials within the refuse containers. All liquids or other wet refuse shall be drained prior to insertion in refuse containers.

Refuse containers shall be placed for refuse collection on the owner or tenant's property, adjacent to the city street or roadway designated for collection, no more than twenty-four (24) hours prior to 7:00 A.M. on the designated day of collection. Refuse containers shall be removed no later than 7:00 A.M. on the day following the day of collection.

Brush, limbs, and branches not otherwise defined as bulk garbage shall be reduced to pieces no more than ten feet (10') in length and two feet (2') in diameter. Said items shall be placed for collection on the

owner or tenant's property, adjacent to the city street or roadway designated for collection. The owner or tenant shall, within twenty-four (24) hours of placement for collection, contact the City of Ripley Public Works Department with a request for collection.

(c) All commercial and industrial establishments shall dispose of refuse in dumpsters designated for their use in such a way that said dumpsters shall not overflow and the refuse so deposited shall not circulate freely in the environment. Cardboard and wood boxes shall be compacted prior to disposal.

(d) The maintenance of a litter-free environment at all construction and demolition sites shall be the responsibility of the owners, contractors and subcontractors thereof. All refuse shall be removed from the site frequently enough to preclude a litter problem.

(e) All loading and unloading docks shall be maintained in such a manner as to prevent refuse from accumulating and from circulating freely in the environment. The responsibility for such maintenance shall devolve upon the owners and lessees thereof.

(f) All owners of private dwellings, or their lessees shall be responsible for seeing to the maintenance of a litter free environment in the areas immediately surrounding said dwellings upon the adjacent public street or road. Obnoxious growth shall be removed.

(g) All vacant lots shall be kept clean and free of litter by the owners or lessees thereof. Obnoxious growth shall be removed.

(h) Every owner or tenants of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his or her property, and it shall be unlawful for any such person to fail to comply with an order by the city recorder or code enforcement officer to cut such vegetation when it has reached a height of over eight inches (8"), unless impermissible.

(i) The city and county landfills shall be the sole ultimate repositories of all refuse. All other dumpsites, other than provisional municipal dumpsites, are accordingly prohibited. This provision shall not prohibit any person from disposing of his own solid waste upon his own lands provided such disposal does not create a public nuisance, health hazard, or unsightly condition.

(j) With respect to publicly maintained dumpsters, there shall be no burning or refuse and no scavenging. Refuse shall not be deposited outside the dumpsters. If a dumpster is full, the refuse will be taken to another dumpster that is not full. Large, heavy items as well as hazardous materials and large pieces of wood are prohibited from being placed in or in the vicinity of a dumpster.

(k) Political and commercial posters or other advertisements shall not be placed upon public property or right-of-way (including utility and telephone poles). Handbills and like advertisements shall be

distributed in such a manner as to prevent their circulating freely in the environment. These items will not be placed on the outside of vehicles, homes, or businesses where they would create a litter hazard.

(l) All organizers of outdoor events are responsible for the rapid removal of all refuse and litter from the site thereof and shall provide appropriate refuse container for the public's use.

(m) All city residents with special disposal problems shall be responsible for seeking the advice of the city code enforcement officer.

(n) All parking lots shall be maintained by the owners or lessee thereof in a clean, litter-free manner.

(o) Contents within, or on, commercial and private vehicles shall be secured to prevent loss of material upon public roads, rights-of-way or other public or private property.

(p) All persons shall insure that any refuse within their control be disposed of in proper containers or places. This will include such items as food and drink containers, tobacco items and other personal use items that could be considered litter.

(q) It shall be unlawful for any person, firm or corporation to dump refuse in any form into any stream, ditch, storm sewer, sanitary sewer or other drain within the city. This does not preclude property prepared putrescible wastes from domestic "garbage grinders" discharging into sanitary sewers.

(r) No person shall throw or deposit litter in or upon any premises, street, sidewalks, or other public place within the city, except in public receptacles or in authorized private receptacles for collection or in the city or Lauderdale County landfills.

(s) If an object of litter is discovered deposited on another's property without his permission, on any public highway, street or road, upon public parks or recreation areas, or upon any other public property except that property designated for that use, bearing a person's name, it shall be prima facie evidence that the person whose name appears on the object threw, dumped, or deposited it there.

(t) For any violation of this section, applicable law enforcement agencies, including the code enforcement officer and code enforcement officer and/or other sanitation officer of the City of Ripley and/or the Lauderdale County Department of Health shall have primary jurisdiction and are hereby authorized to issue citations for such violations.

(u) It shall be unlawful for any non-city resident to dump or dispose of garbage, litter and/or refuse into any city dumpster or any other city garbage container.

(v) (i) Business owners operating within the corporate city limits who are assessed refuse fees; and

(ii) Divisions or departments of the City of Ripley or any subsection, board, or agent thereof, are expressly excluded from the provisions of § 17-110(1)(a).

(2) Notice. If it is determined by the authorized officer that any owner of record of real estate has created, maintained or permitted to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulation of debris, trash, litter or garbage, or any combination of the preceding elements, so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats or other harmful animals, said officer shall provide notice to the owner of record to remedy the condition immediately. The notice shall be given by U.S. mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is in violation of said chapter, and is entitled to a hearing before the city judge, and shall contain:

(a) A brief statement of this section which shall contain the consequences of failing to remedy the noted condition;

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

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

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

(3) Failure to comply with notice. If the property owner fails or refuses to remedy the condition within ten (10) days after receiving the notice, the officer shall immediately cause the condition to be remedied or removed at costs in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property. Upon the filing of the notice with the office of Register of Deeds of Lauderdale County, the costs shall be made a lien on the property in favor of the City of Ripley, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right or interest in said property duly recorded and duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax roll of the City of Ripley as a lien and shall be added to the property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected, and shall be subject to the same penalty and interest as delinquent property taxes.

If the person who is the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials, the ten (10) day period aforesaid shall be twenty (20) days, excluding Saturdays, Sundays and legal holidays.

(4) Hearing. The City of Ripley shall provide for a hearing before the city judge upon request in writing of the person aggrieved by the determination made pursuant to § 17-110(2) and (3) above. A request for hearing shall be made within ten (10) days following the receipt of the notice issued pursuant to said subsections. Failure to make the request within this time shall, without exception, constitute a waiver of the right to hearing.

Any person aggrieved by an order of the city judge following a hearing may seek judicial review of the order or act. The time period established in § 17-110(3) shall be stayed during a pendency of a hearing.

(5) Penalty. Each separate dumping violation shall constitute a separate offense. Each separate item of bulk garbage shall constitute a separate offense.

With regard to bulk garbage, a separate fine shall be assessed against each of the following: tenant and owner of the subject property and any other identified person or entity who/which violates this section. However, the judge may, in his/her discretion, waive fine against any of the named persons or entities if one (1) of them assumes primary responsibility for bulk garbage and simultaneously satisfies the fine(s).

The judge may, in his/her discretion, require any person found in violation of this section to remove litter from public property within the city, or other appropriate locations, or to perform community service within the city or for any of its departments or divisions, or for other appropriate charitable or nonprofit entities, for any prescribed period in lieu thereof, or in addition to the penalty as provided in the section. (1994 Code, § 17-110, as amended by Ord. #529, Sept. 2018, and Ord. #530, Nov. 2018, modified)

17-111. Provisions regarding automobile graveyards. (1) Permit required. No person shall own or maintain any automobile graveyard within the city until he shall receive a permit so to do from the city recorder. The city recorder shall issue such a permit to any applicant whose premises comply with the requirements of this and all other applicable ordinances of the city. Any permit so issued may be revoked by the city recorder for failure to comply with any requirement of this chapter. However, charges shall be proffered in writing by the recorder and served upon the permittee and he shall be given the right to be heard as to why his license should not be revoked.

Any person aggrieved by the city recorder's action relative to the issuance or revocation of an automobile graveyard permit may appeal to the city governing body which shall hold a hearing and decide whether or not the recorder's action was reasonable. Based upon its findings at such hearing the city governing body shall affirm or reverse the city recorder's action.

(2) Regulations applicable. All automobile graveyards within the city shall be operated and maintained subject to the following regulations:

(a) All motor vehicles stored or kept in such yards shall be so kept that they will not catch or hold water in which mosquitoes may

breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(b) All such automobile graveyards shall be enclosed within a close fitting plank or metal solid fence touching the ground on the bottom and being not less than six feet (6') in height, such fence to be so built that it will be impossible for stray cats and/or stray dogs to have access to such automobile graveyards.

(c) Such automobile graveyards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.

(3) Existing automobile graveyards. Any owner and/or operator of an automobile graveyard in existence at the time this section becomes effective shall have sixty (60) days in which to get a permit or remove the offending vehicles. (1994 Code, § 17-111, modified)

17-112. Provisions regarding abandoned motor vehicles.

(1) Restrictions. It shall be unlawful to park, store, or leave, or to permit the parking or storing of an abandoned motor vehicle, for a period in excess of seventy-two (72) hours, upon any private property within the city, unless the same is completely enclosed within a building or unless it is connected with a business enterprise operated on a lawful place and manner and licensed as such and when necessary to the operation of such business enterprise.

(2) Violations. The accumulation and storage of one (1) or more such abandoned motor vehicles in violation of the provisions of this chapter shall constitute rubbish and unsightly debris, and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the City of Ripley, and it shall be the duty of the registered owner of such motor vehicle and the person in charge or control of the private property upon which such motor vehicle is located whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage, or to have the motor vehicle housed within a building where it will not be visible from the street.

(3) Notice. Whenever there is reasonable grounds to believe that a violation of a provision of § 17-112 exists, the code enforcement officer will give, or cause to be given, written notice that said motor vehicle violates the provisions of this chapter and demand that within ten (10) days of the mailing of such notice said motor vehicle be removed to a place of lawful storage or be housed in a building where it will not be visible from the street, and advise of the intention of the chief of police to remove and impound such motor vehicle if it has not been so removed or housed at the end of such time. Such notice will be given by:

(a) Affixing notice on such motor vehicle;

(b) Sending such notice by mail to the owner of such motor vehicle at his last known address if the owner is reasonable ascertainable; and

(c) By sending notice by mail to the person owning or controlling the property on which the motor vehicle is located, if that person is different from the owner of such motor vehicle.

(4) Failure to comply with notice. Any person who fails, neglects, or refuses to remove the abandoned motor vehicle or to house the same and abate said nuisance, in accordance with the notice given pursuant to the provisions of § 17-112(3), shall be in violation of the provisions of this chapter.

(5) Removal of offending vehicles by chief of police. In addition to and not in lieu of any other procedure prescribed in this chapter or in this code for removal of abandoned motor vehicles from private property, if the registered owner of such vehicle which is in violation of this chapter or the owner of person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned motor vehicle in accordance with the notice given pursuant to the provisions of § 17-112(3), the chief of police may remove and impound said motor vehicle until lawfully claimed. If not lawfully claimed within a period of ten (10) days, the chief of police may dispose of such vehicle at public sale or as otherwise provided by *Tennessee Code Annotated*, § 55-16-105, *et seq.* and he may thereafter maintain an action in the name of the City of Ripley, in the appropriate court, against any person or persons upon whom notice was served as required by § 17-112(3), to recover the cost of removing, impounding, and disposing of such motor vehicle in the event the proceeds of any sale thereof shall be insufficient to recover such costs. Any such unsatisfied costs shall become a lien upon the real property upon which said abandoned motor vehicle was located in violation of this chapter, said lien to be satisfied as any other delinquent tax lien.

(6) Authority of city personnel to enter private premises. The chief of police, any regularly employed and/or salaried officer of the police department of the City of Ripley, contracting agents of the City of Ripley, and employees of such contracting agents, and/or authorized office employees and agents of the City of Ripley, and each of them, are hereby expressly authorized to enter upon private property for the purposes of enforcing the provisions of this chapter. It shall be unlawful for any person to interfere with, hinder, or refuse to allow them to enter upon private property for such purpose and to remove any motor vehicle in accordance with the provisions of this chapter.

(7) Deadline for abating nuisance privately. Any person to whom notice was given pursuant to § 17-112(3) shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense at any time prior to the arrival of the chief of police or his authorized representative for the purpose or removal of said abandoned motor vehicle. (1994 Code, § 17-112, modified)

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. SEWAGE.
2. SEWER USE REGULATIONS.
3. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
4. WATER AND SEWER SYSTEM ADMINISTRATION.
5. DROUGHT MANAGEMENT.
6. GAS, WATER, AND WASTEWATER PLANTS.

CHAPTER 1

SEWAGE²

SECTION

- 18-101. Premises requiring sanitary sewage disposal facilities.
- 18-102. When a connection to the sanitary sewer is required.
- 18-103. When a septic tank is authorized.
- 18-104. Owner to provide facilities.
- 18-105. Occupant to maintain facilities; when pit privy is authorized.
- 18-106. Disposal by unsanitary methods prohibited.
- 18-107. Building permit required.
- 18-108. Code enforcement officer to enforce chapter.

18-101. Premises requiring sanitary sewage disposal facilities.

Every residence, building or place where human beings reside, assemble, or are employed within the City of Ripley shall be required to have a sanitary method for disposal of sewage and human excreta. (1994 Code, § 18-101)

18-102. When a connection to the sanitary sewer is required.

Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to the sewer made in compliance with the requirements of the official responsible for the public

¹Municipal code references

Building, utility and residential codes: title 12.
Refuse disposal: title 17.

²Municipal code reference

Plumbing code: title 12, chapter 2.

sewerage system. On any lot or premises accessible to the sewer no other method of sewage disposal shall be employed. (1994 Code, § 18-102)

18-103. When a septic tank is authorized. Wherever water-carried sewage facilities are installed and their use is permitted by the code enforcement officer and an accessible sewer does not exist, the wastes from such facilities shall be discharged into a septic tank system approved by the code enforcement officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the code enforcement officer and the installation shall be under the general supervision of the department of health. (1994 Code, § 18-103, modified)

18-104. Owner to provide facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required, or the agent of the owner, to provide such facilities. (1994 Code, § 18-104)

18-105. Occupant to maintain facilities; when pit privy is authorized. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times. Wherever a sanitary method of human excreta disposal is required and water-carried sewage facilities are not used and cannot be physically installed, upon written permission of the code enforcement officer, a sanitary pit privy or other approved method of disposal shall be provided. (1994 Code, § 18-105, modified)

18-106. Disposal by unsanitary methods prohibited. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1994 Code, § 18-106)

18-107. Building permit required. No property owner shall build or allow any building upon his property, nor shall any builder, contractor, erector, carpenter, engineer, architect or materialman build on any lot in the City of Ripley unless sanitary sewage disposal facilities are provided as required by this chapter. A building permit shall be obtained from the Recorder-Treasurer of the City of Ripley prior to the erection of any building on any lot. This chapter also applies to pre-built homes, pre-fab houses, and pre-constructed houses. (1994 Code, § 18-107)

18-108. Code enforcement officer to enforce chapter. It shall be the duty of the code enforcement officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any

violation of this chapter shall be given by the code enforcement officer to the person or persons responsible under this chapter for the correction of the condition. Correction shall be made within thirty (30) days after notification, except in case of new construction which shall be stopped immediately upon discovery of any violation of this chapter. (1994 Code, § 18-108, modified)

CHAPTER 2

SEWER USE REGULATIONS

SECTION

- 18-201. General provisions.
- 18-202. Use of public sewers.
- 18-203. Private wastewater disposal.
- 18-204. Wastewater discharge permits.
- 18-205. Excluded wastes.
- 18-206. Pretreatment and accidental discharge.
- 18-207. Flow and concentration control.
- 18-208. Measurement of flow.
- 18-209. Monitoring facilities.
- 18-210. Inspections, monitoring and reporting.
- 18-211. Authority for inspection.
- 18-212. Confidential information.
- 18-213. Protection of equipment.
- 18-214. Reviewing authority.
- 18-215. Enforcement, penalties and costs.
- 18-216. Fees.
- 18-217. Special agreements.
- 18-218. Amendments.

18-201. General provisions. (1) Purpose and policy. In accordance with provisions of a private act of the 1959 Tennessee General Assembly, chapter 354, amended by chapter 212 of the 1967 General Assembly as incorporated into the revised Charter of the City of Ripley, Tennessee, enacted as chapter 167 of the Private Acts of the Tennessee General Assembly of 1967, approved by the Ripley City Council of the City of Ripley, Tennessee, and the Quarterly County Court of Lauderdale County on April 25, 1967 and included in said charter as sections 71-83 inclusive and in accordance with the Official Code of the City of Ripley, ordinance number 1984-6 adopted February 10, 1984, Revision Number 1989-35, adopted December 2, 1989, these wastewater department use regulations are adopted for the purposes of regulating and controlling the discharge of wastewater into the Wastewater Department of the Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee (Ripley Gas, Water and Wastewater Department), to set forth uniform requirements for users of the Wastewater Department of the Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee, and to enable the Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee, to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act Amendments of 1972, (P.L. 92-500) as amended by The Clean Water Act of 1977 (P.L. 95-217) and as further amended (33 U.S.C.

§ 1251 *et seq.*); the General Pretreatment Regulations (40 CFR part 403); the Resource Conservation and Recovery Act of 1983 (P.L. 94-580) as amended; the Clean Air Act (42 U.S.C. § 7401 *et seq.*) as amended; the Toxic Substances Control Act (P.L. 94-469) as amended; all applicable laws of the State of Tennessee; and rules and regulations of the United States Environmental Protection Agency as amended. These wastewater department use regulations provide for the regulation of users of the wastewater department through the issuance of permits to certain non-domestic users and through enforcement of general requirements for all users, authorize monitoring and enforcement activities, require user reporting and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein. These regulations shall apply to all persons within the City of Ripley and to persons outside the city who by contract or agreement with Ripley Gas, Water and Wastewater Department, are users of the Ripley Gas, Water and Wastewater Department. Except as otherwise provided herein, the superintendent of the Ripley Gas, Water and Wastewater Department shall administer, implement, and enforce the provisions of these regulations. The objectives of these regulations are:

- (a) To prevent the introduction of pollutants into the wastewater department which will interfere with the operation of the wastewater department or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the wastewater department that will pass inadequately treated through the wastewater department into receiving waters or the atmosphere or otherwise be incompatible with the operation of the wastewater department;
- (c) To improve the opportunity to recycle and reclaim wastewater and sludge from the wastewater department;
- (d) To provide for equitable distribution of the costs attributable to the construction, operation and maintenance of the wastewater department as required by the Charter of the City of Ripley, Tennessee;
- (e) To assure that existing users' capacities will not be preempted;
- (f) To authorize monitoring and enforcement activities; and
- (g) To require user reporting.

(2) Abbreviations. The following abbreviations shall have the designated meanings:

ASTM - American Society for Testing and Materials.
 BMP - Best Management Practices.
 BOD - Biochemical Oxygen Demand.
 CBOD - Carbonaceous Biochemical Oxygen Demand.
 CFR - Code of Federal Regulations.
 COD - Chemical Oxygen Demand.
 °C - Degrees Celsius.

°F - Degrees Fahrenheit.

EPA - (The) United States Environmental Protection Agency.

L - Liter.

mg - Milligram(s).

mg/l - Milligram(s) per Liter.

NH₃-N - Ammonia reported as nitrogen.

NPDES - National Pollutant Discharge Elimination System.

O&M - Operation and Maintenance.

OSHA - Occupational Safety and Health Administration.

P.L. - Public Law.

POTW - Publicly Owned Treatment Works (wastewater collection and treatment system).

RCRA - (The) Resource Conservation and Recovery Act of 1983 as amended.

SIU - Significant Industrial User.

TDEC - (The) Tennessee Department of Environment and Conservation, Division of Water Resources.

TRC - Technical Review Criteria.

TSS - Total Suspended Solids.

U.S.C. - United States Code.

WEF - Water Environment Federation.

(3) Definitions. The following words, terms and phrases, wherever used in these regulations, shall have the meanings respectively ascribed to them in this section unless the context plainly indicates otherwise or that a more restricted or extended meaning is intended.

Inclusions and Definitions:

Definitions include both the singular and the plural and all pronouns include both the singular and the plural and cover all genders.

(a) "Accidental discharge." Any release of wastewater, which, for any reason foreseen or unforeseen, fails to comply with any prohibition or limitation in these regulations.

(b) "Act or the Act." The Federal Water Pollution Control Act (P.L. 92-500) as amended by the Clean Water Act of 1977 (P.L. 95-217) and as further amended (33 U.S.C. paragraph 1251 *et seq.*).

(c) "Approval authority." The Director, Tennessee Department of Environment and Conservation, Division of Water Resources (TDEC) or his authorized representative.

(d) "Authorized representative of a user." An authorized representative of a user shall be:

(i) If the user is a corporation:

(A) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

(B) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(ii) If the user is a partnership or sole proprietorship: a general partner or proprietor respectively.

(iii) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(iv) The individuals described in subsections above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Ripley Gas, Water and Wastewater Department.

(e) "Best Management Practices" or "BMPs." Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-205. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(f) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under the standard laboratory procedure defined at 40 CFR part 136 in five (5) days at twenty degrees (20°) C (sixty-eight degrees (68°) F) expressed in terms of weight and volume (mg/l).

(g) "Black water." Wastewater from sanitary fixtures such as toilets and urinals.

(h) "Board." The Board of Directors of the Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee.

(i) "Building sewer or house connection." The connecting pipe from a building, beginning five feet (5') outside the inner face of the building wall, to a sanitary sewer.

(j) "Carbonaceous Biochemical Oxygen Demand" or "CBOD." The quantity of oxygen utilized in the biochemical oxidation of carbonaceous organic matter under the standard laboratory procedure defined at 40 CFR part 136 in five (5) days at twenty degrees (20°) C (sixty-eight degrees (68°) F) expressed in terms of weight and volume (mg/l).

(k) "Categorical standard." Categorical pretreatment standard or category. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405 through 471.

(l) "City." The City of Ripley, Tennessee, a municipal corporation, or the Ripley City Council of the City of Ripley, Tennessee.

(m) "Color." Considered to be the true color of the light transmitted by a wastewater solution after removing suspended material including pseudo colloidal particles.

(n) "Combined sewer." A sewer receiving both surface runoff and wastewater.

(o) "Common grease interceptor." Interceptor to which grease wastes are directed from more than one (1) facility having different operators or type of operations, such as in a food court.

(p) "Composite sample." A sample made by combining a number of grab samples collected over a defined period of time. A composite sample may be either a:

(i) Flow proportional composite sample. A sample composed of sample aliquots combined in proportion to the amount of flow occurring at the time of their collection. Such samples may be composed of equal aliquots being collected after equal predetermined volumes of flow pass the sample point or of flow proportional grab sample aliquots being collected at predetermined time intervals so that at least twelve (12) aliquots are collected per twenty-four (24) hours; or

(ii) Time proportional composite sample. A sample composed of equal sample aliquots taken at equal time intervals of not more than two (2) hours over a defined period of time.

(q) "Connection." Any physical tie or hookup made to a public sewer.

(r) "Constituents." The specific compounds and components which comprise a wastewater.

(s) "Control authority." The Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee.

(t) "Daily maximum limit." The maximum allowable discharge of a pollutant during a calendar day. Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limitations are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(u) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(v) "Domestic wastewater." All liquid and waterborne pollutants, exclusive of unpolluted wastewater as defined in § 18-201(3)(nnnn) or wastewater or process wastewater from operations of industrial users as defined in § 18-201(3)(mm); or (sanitary sewage).

(w) "Environmental coordinator." An individual employed by Ripley Gas, Water and Wastewater Department who is charged with the responsibility of administering the provisions of the pretreatment program to ensure compliance by users with applicable laws, rules, regulations, resolutions and ordinances relative to the concentration(s) of substances found in the waste stream of facilities connected to the POTW.

(x) "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 said agency.

(y) "Flammable." Shall be as defined in § 18-205.

(z) "Food courts." Areas predominantly found in shopping centers or amusement parks and festivals where several food preparation establishments having different owners may be sharing seating space and/or plumbing facilities.

(aa) "Food service facility." Any facility which cuts, cooks, bakes, prepares or serves food, or which disposes of food related wastes.

(bb) "Garbage." Solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

(cc) "Garbage grinder." A device which shreds or grinds up solid or semisolid waste materials into smaller portions for discharge into the sanitary sewer collection system.

(dd) "Grab sample." A sample which is taken from a wastewater stream on a one (1) time basis and collected over a period of time not to exceed fifteen (15) minutes with no regard to the flow in the wastewater stream and without consideration of time.

(ee) "Gray water." Refers to all wastewater other than black water as defined in this section.

(ff) "Grease." A material composed primarily of fats, oil, and grease from animal or vegetable sources. The terms fats, oil, and grease or fats, oil, and grease substances will be deemed as grease by definition.

(gg) "Grease interceptor." A device so constructed as to separate and trap or hold fats, oil, and grease substances from the sewage discharged from a facility in order to keep fats, oil, and grease substances from entering the sanitary sewer collection system. Under the sink grease interceptors or traps will not be construed as meeting the grease interceptor definition in this chapter.

(hh) "Hauler." One who transfers waste from the site of a user to an approved site for disposal or treatment. The hauler is responsible for assuring that all federal, state and local regulations are followed regarding waste transport.

(ii) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, vacuum-pump tank trucks and septic tank haulers.

(jj) "Indirect discharge." The discharge or the introduction of non-domestic pollutants, as the term pollutants is defined in § 18-201(3) (eee), into the wastewater department (including holding tank waste discharge into the wastewater department).

(kk) "Industrial user." Any user of the wastewater department who discharges industrial wastewater, as that term is defined in § 18-201(3)(nn), into the wastewater department.

(ll) "Industrial wastewater." The liquid and waterborne pollutants resulting from any processes or operations employed in industrial establishments.

(mm) "Infiltration." The water entering sanitary sewers and building sewers from the soil through defective joints, broken or cracked pipe, improper connections, manhole walls or other defects in sanitary sewers as defined in § 18-201(3)(rrr) or building sewers as defined in § 18-201(3)(i). "Infiltration" does not include and is distinguished from inflow.

(nn) "Inflow." The water discharged into sanitary sewers and building sewers from such sources as down spouts, roof leaders, cellar and yard area drains, foundation drains, commercial and industrial discharges of unpolluted wastewater as defined in § 18-201(3)(nnnn), drains from springs and swampy areas, etc. It does not include and is distinguished from infiltration.

(oo) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(pp) "Interference." A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the

wastewater department, its treatment processes or operations, or its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or the collection system.

(qq) "Local limit." A pretreatment requirement as defined in § 18-201(3)(ggg).

(rr) "Medical waste." Isolation wastes, infectious agents, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, and potentially contaminated laboratory wastes.

(ss) "Monthly average limit." The maximum allowable discharge of a pollutant during a calendar month. Where the monthly average limitations are expressed in terms of mass, the monthly average discharge is the summation of all the measured daily discharges by mass divided by the number of days during the calendar month when the measurements were made. Where the monthly average limitations are expressed in terms of concentration, the monthly average discharge is the arithmetic mean of all the composite or grab samples collected in one (1) calendar month.

(tt) "National Pollutant Discharge Elimination System Permit or NPDES permit." A permit issued to Ripley Gas, Water and Wastewater Department by IDEC pursuant to sections 402 of the Act (33 U.S.C. § 1342) regulating the discharge of wastewater.

(uu) "National pretreatment standard, pretreatment standard or standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307 (b) and (c) of the Act (33 U.S.C. § 1317) which applies to industrial users. This also includes prohibited discharges listed in § 18-205, and local limits.

(vv) "New source." Any source of discharge or proposed discharge of any industrial wastewater into the wastewater department as defined in § 18-204(2)(e) or a proposed significant change as defined in § 18-204(3) in the character and/or volume of any industrial wastewater which is currently being discharged into the wastewater department.

(ww) "Non-contact cooling water." Water used for cooling which does not come into direct contact with any raw material, intermediate product, water product or finished product.

(xx) "Pass through." A discharge from the POTW into a receiving stream in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of a Ripley Gas, Water and Wastewater Department NPDES Permit or an increase in the magnitude or duration of a violation.

(yy) "Permit synopsis." A rationale sheet as defined in § 18-201(3)(mmm).

(zz) "Person." Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal

representatives, agents or assigns other than the City of Ripley or the Ripley Gas, Water and Wastewater Department.

(aaa) "pH." The logarithm to the base 10 of the reciprocal of the concentrations of hydrogen ions in a solution measured using the standard procedure defined at 40 CFR part 136.

(bbb) "Pollutant." Any solid waste, chemical waste, biological material, radioactive material, thermal waste or industrial, municipal or agricultural waste discharged into water, land or air.

(ccc) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological and/or radiological integrity of water, land or air.

(ddd) "Pretreatment." The lawful reduction in the amounts of pollutants, the elimination of pollutants, the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to discharging or otherwise introducing such pollutants into the wastewater department.

(eee) "Pretreatment requirement." Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.

(fff) "Private wastewater disposal system." Any facilities for wastewater treatment and disposal not maintained and operated by Ripley Gas, Water and Wastewater Department.

(ggg) "Process wastewater." Wastewater resulting from or as a result of any industrial process or operation.

(hhh) "Properly shredded garbage." The organic waste resulting from the preparation, cooking and dispensing of foods that have been shredded to such degree that all particles will be carried freely under flow conditions normally prevailing in sanitary sewers with no particle being greater than one-half inch (1/2") in any dimension.

(iii) "Public sewer." Sanitary sewer.

(jjj) "Publicly Owned Treatment Works" or "POTW." All facilities owned by Ripley Gas, Water and Wastewater Department for collecting, pumping, treating and/or disposing of wastewater (sewerage system or wastewater department).

(kkk) "Rationale sheet." A brief summary of an application and permit (permit synopsis) containing the following:

- (i) Qualitative description of discharge; and
- (ii) Basis of pretreatment limitations.

(lll) "Receiving stream." That body of water, stream or watercourse receiving the discharge from a wastewater treatment plant or that body of water, stream or watercourse formed by the effluent from a wastewater treatment plant.

(mmm) "Reportable violation." Any significant violation of these regulations as defined in § 18-201(3)(zzz).

(nnn) "Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee." The Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee, as governed by the Board of Directors of the Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee, or where appropriate, the term may also be used as a designation for the Superintendent of Ripley Gas, Water and Wastewater Department or other duly authorized official of Ripley Gas, Water and Wastewater Department.

(ooo) "Sanitary sewage." (Domestic wastewater).

(ppp) "Sanitary sewer." A sewer controlled by a governmental agency or public utility that carries liquid and water borne wastewater from residences, commercial buildings, industrial facilities and institutions with minor quantities of ground and surface waters that are not intentionally admitted (public sewer).

(qqq) "Septage." Liquid or solid waste pumped from a domestic wastewater septic tank or cesspool.

(rrr) "Sewage." The liquid and water carried domestic or industrial wastes from residential, commercial, industrial facilities whether treated or untreated. The terms waste and wastewater will be deemed as sewage by definition.

(sss) "Sewer." A pipe for carrying wastewater.

(ttt) "Sewer lateral." A sewer line or lines maintained and controlled by private persons for the purpose of conveying sewage from the waste producing location to the sanitary sewer collection system.

(uuu) "Sewerage system." Publicly Owned Treatment Works (POTW) as defined in § 18-201(3)(lll). (Wastewater department).

(vvv) "Significant Industrial User" or "SIU." Any industrial user of the Ripley Gas, Water and Wastewater Department Wastewater Department who:

(i) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N and/or;

(ii) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to a sanitary sewer (excluding sanitary sewage and/or unpolluted wastewater) and/or;

(iii) Contributes a process wastewater stream which makes up five percent (5%) or more of the average day weather hydraulic or organic capacity of a wastewater treatment plant or;

(iv) Is designated as such by the approval authority, control authority, or the EPA on the basis that the industrial user, either singly or in combination with other contributing industries, has a reasonable potential for adversely affecting the POTW's operation, quality of sewage sludge, effluent quality or air emissions.

(www) "Significant Non Compliance" or "SNC." Any violation(s) of these regulations as defined in § 18-215(2) that result(s) in:

(i) Chronic violation of wastewater discharge limits. Defined here as any violation in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month reporting period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-201(3)(qq); or

(ii) "Technical Review Criteria (TRC) violation." Defined here as any violation in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month reporting period equal or exceed the product of the daily maximum limit or the monthly average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH); or

(iii) Any other violation of a pretreatment standard or requirement as defined by § 18-205, (daily maximum, long term average, instantaneous limit, or narrative standard) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of wastewater department personnel or the general public; or

(iv) pH excursions. Defined here, as:

(A) Any pH value at a pH below 5.0 pH units, or above 9.5 pH units;

(v) Prohibited pH excursions. Defined here, as:

(A) Any wastewater discharge at a pH below 5.0 pH units;

(B) Any wastewater discharge at a pH above 9.5 pH units;

(C) Any pH excursion that causes damage to the Ripley Gas, Water and Wastewater Department Wastewater Department;

(D) Any pH excursion that interferes with the operation of a Ripley Gas, Water and Wastewater Department Wastewater Treatment Plant; or

(E) Any pH excursion that causes a violation of a Ripley Gas, Water and Wastewater Department NPDES Permit.

(vi) Any other violation of a pretreatment effluent limit that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public); or

(vii) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in emergency enforcement actions being initiated in accordance with provisions of § 18-215(6) to halt or prevent such a discharge; or

(viii) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance; or

(ix) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules; or

(x) Failure to accurately report non compliance; or

(xi) Any other violation or group of violations, which may include a violation of best management practices, which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

(xxx) "Significant violation." A violation of these regulations:

(i) Which remains uncorrected forty-five (45) days after notification of non compliance;

(ii) Which is part of a pattern of non compliance over a twelve (12) month period;

(iii) Which involves a failure to accurately report non compliance; or

(iv) Which results in the POTW exercising its emergency authority under 40 CFR part 403, section 403.8(f)(1)(vi)(B); or

(v) Which results in an industrial user being in significant non compliance as defined in § 18-201(3)(yyy).

(yyy) "Single service restaurant." Any restaurant where the meals are served on throw away plates and utensils.

(zzz) "Slug." Any discharge of wastewater for any duration during which the rate of flow or concentration of any constituent increases to such magnitude so as to adversely affect the operation of the wastewater department or the ability of the wastewater treatment plant to meet applicable water quality objectives.

(aaaa) "Standard Industrial Classification" or "SIC." A classification of an industry based on its product or service as defined in the *Standard Industrial Classification Manual*.

(bbbb) "Standard methods." The analytical procedures set forth in the current edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association or "EPA Methods for Chemical Analysis of Water and Wastes." All procedures must conform to requirements of 40 CFR part 136.

(cccc) "State." (The) State of Tennessee.

(dddd) "Storm sewer or storm drain." A sewer which carries storm and surface waters and drainage but which excludes sanitary sewage and polluted industrial wastewater.

(eeee) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(ffff) "Strength of wastewater." The concentration of pollutants or substances contained in a wastewater.

(gggg) "Superintendent of Ripley Gas, Water and Wastewater Department." The chief administrative officer of Ripley Gas, Water and Wastewater Department who is charged with administrative control of all operations of Ripley Gas, Water and Wastewater Department and is responsible directly to the board as used herein, it may also include any other Ripley Gas, Water and Wastewater Department employee delegated to act for Ripley Gas, Water and Wastewater Department by the Superintendent of Ripley Gas, Water and Wastewater Department or by the board.

(hhhh) "Total suspended solids." The total solid matter that either floats on the surface of or is suspended in water, wastewater or other liquids and measured using the standard procedure defined at 40 CFR part 136.

(iiii) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in federal or state law or regulations promulgated by EPA or the State of Tennessee.

(jjjj) "Twenty-four (24) hour composite sample." A composite sample as defined in § 18-201(3)(p). Alternate sampling requirements may be established in a user's industrial wastewater discharge permit and/or by the control authority.

(kkkk) "Under the sink grease trap." A device placed under or in close proximity to sinks or other facilities likely to discharge grease in an attempt to separate, trap or hold, oil and grease substances to prevent their entry into the sanitary sewer collection system. Such under the sink grease traps are not grease interceptors for purposes of this chapter because they are generally undersized and located too close to the grease discharging source to effectively prevent substantial amounts of grease from entering the sanitary sewer collection system.

(llll) "Unpolluted wastewater." Any wastewater which is substantially free of pollutants and which is discharged from the following:

- (i) Rain down spouts and drains;
- (ii) Footing drains;
- (iii) Storm drains;
- (iv) Non-contact cooling water systems; or
- (v) Aquifer restoration or well development activities.

(vi) Unpolluted wastewater shall contain, by definition, none of the following:

- (A) CBOD in excess of ten (10) mg/l;
- (B) TSS in excess of ten (10) mg/l;
- (C) Free or emulsified greases or oils;
- (D) Acids or alkalies;
- (E) Phenols or other substances imparting taste or odor to a receiving stream;
- (F) Toxic or poisonous substances;
- (G) Noxious or odorous gases; or
- (H) Temperature which exceeds sixty degrees (60°) C (on hundred forty degrees (140°) F) at its introduction into a storm sewer or which exceeds forty degrees (40°) C (one hundred four degrees (104°) F) at its introduction into a receiving stream.

(vii) Unpolluted wastewater shall also mean any wastewaters judged by TDEC to be admissible to watercourses under the jurisdiction of TDEC and in accordance with the standards of water quality established by TDEC for the particular watercourse into which such unpolluted wastewater is to be discharged.

(mmmm) "Upset of pretreatment facilities." An exceptional incident in which there is an unintentional and temporary non compliance with the effluent limitations of the user's permit because of factors beyond the reasonable control of the user. An upset does not include non compliance caused by operational error, improperly designed or inadequate treatment facilities, lack of preventive maintenance, or careless or improper operations.

(nnnn) "User." Any person who discharges, causes or permits the discharge of wastewater into the wastewater department.

(oooo) "Waste." Any physical, chemical, biological, radioactive or thermal material which may be a solid, liquid or gas and which may be discarded from any industrial, municipal, agricultural, commercial or domestic activity.

(pppp) "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 wastewater department.

(qqqq) "Wastewater department." All facilities for collecting, pumping, treating and disposing of wastewater (sewerage system or Publicly Owned Treatment Works or POTW).

(rrrr) "Wastewater treatment plant." The facilities of Ripley Gas, Water and Wastewater Department for treating and disposing of wastewater.

(ssss) "Watercourse." A channel in which a flow of water occurs either continuously or intermittently.

(tttt) "Waters of the state." All bodies or accumulations of water, on the surface or underground, within the boundaries of the State of Tennessee. (1994 Code, § 18-201)

18-202. Use of public sewers. (1) Discharge of untreated wastewater prohibited. It shall be unlawful for any person to discharge to any outlet other than a sanitary sewer, within the boundaries of the city, any domestic or industrial wastewater except where suitable treatment has been provided in accordance with subsequent provisions of these regulations and where an appropriate NPDES permit has been obtained.

(2) Connection to public sewers. The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a sanitary sewer of Ripley Gas, Water and Wastewater Department that discharges to a Ripley Gas, Water and Wastewater Department Wastewater Treatment Plant, is hereby required at the owner(s) expense to install suitable toilet and other facilities therein necessary for the discharge of domestic and/or industrial wastewater and owner(s)' expense to connect such facilities directly with the appropriate sanitary sewer in accordance with these regulations within thirty (30) days after the date of official notice to do so, provided that such sanitary sewer abuts the property or access easement thereto and maintain the connection of such facilities in accordance with the provisions of these regulations. The owner is not required to connect such facilities directly to a sanitary sewer connection if it is not technically feasible as determined by Ripley Gas, Water and Wastewater Department. All costs and expenses incident to the installation, connection and inspection of building sewers as defined shall be borne by the user. The user shall indemnify the Ripley Gas, Water and Wastewater Department from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. A separate and independent building sewer shall be provided for every building; except where one (1) building stands at the rear of another on an interior lot and no building sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Old building sewer may be used in connection with a new building only when they meet all requirements of this regulation. All others must be replaced in accordance with the requirements of this regulation. Building sewers shall conform to the following requirements.

(a) The minimum size of a building sewer for connection of residential users to the wastewater department shall be four inches (4").

(b) The minimum size of a building sewer for connection of commercial, institutional and industrial users to the wastewater department shall be six inches (6").

(c) The minimum depth of cover above a building sewer shall be eighteen inches (18").

(d) Four inch (4") building sewers shall be laid on a grade greater than one-fourth inch (1/4") per foot. Six inch (6") building sewers shall be laid on a grade greater than one-eighth inch (1/8") per foot. Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least three feet (3') per second.

(e) Slope and alignment of all building sewers shall be neat and regular.

(f) Building sewers shall be constructed only of ductile iron pipe with rubber compression joints or polyvinyl chloride pipe with rubber compression joints. Under no circumstances will cement mortar joints or glued joints be acceptable.

(g) Cleanouts shall be located on building sewers as follows:

(A) One (1) cleanout located five feet (5') outside of the building.

(B) One (1) cleanout at the connection onto the wastewater department collector sewer line.

(C) One (1) cleanout at each change of direction of the building sewer which is greater than forty-five (45) degrees.

(D) Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of four inch (4") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A branch "Y" (wye) and forty-five degree (45°) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4").

(h) Connections of building sewers to the wastewater department shall be made at the appropriate existing wye or tee branch using compression type couplings or collar type rubber joint with stainless steel bands. Where existing wye or tee branches are not available, connections of building sewers shall be made by either removing a length of existing wastewater department sewer pipe and replacing it with a wye or tee fitting or by cutting a clean opening in the existing wastewater department sewer line and installing a tee-saddle or tee-insert of a type approved by the control authority. All such connections shall be made gastight and watertight.

(i) The building sewer may be brought into the building below the basement floor when the building sewer can be constructed at the grade required in this section of this regulation from the building to the public sewer. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the public sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the user. In all buildings in which any building sewer is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building sewer shall be lifted by a residential grinder pump furnished and installed by the Ripley Gas, Water and Wastewater Department and discharged to the building sewer. Power to operate the residential grinder pump shall be provided by and at the expense of the user.

(j) The methods to be used in excavating, placing of pipe, jointing, testing, backfilling the trench or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in *ASTM Standard D 2321* and *Water Environment Federation Manual of Practice No. 9*. Any deviation from the prescribed procedures and materials must be approved by Ripley Gas, Water and Wastewater Department before installation.

(k) An installed building sewer shall be gastight and watertight.

(l) 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 Ripley Gas, Water and Wastewater Department.

(m) No person shall make connection of roof downspouts, exterior foundation drains, area drains, basement drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

(3) Inspection of connections. The connection of the building sewer to the public sewer and all building sewers from the building to the public sewer main line shall be inspected by Ripley Gas, Water and Wastewater Department or his authorized representative before the underground portion is covered. The applicant for discharge shall notify Ripley Gas, Water and Wastewater Department when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the control authority.

(4) Maintenance of building sewers. Each user shall be entirely responsible for the maintenance of the building sewer located on the user's property to insure that the building sewer remains watertight. This maintenance will include repair or replacement of the building sewer as deemed necessary by Ripley Gas, Water and Wastewater Department to meet the requirements of this regulation. If, upon smoke testing or visual inspection by the control authority, roof downspout connections, exterior foundation drains, area drains, basement drains, building sewer leaks or other sources of rainwater, surface runoff or groundwater entry into the wastewater department are identified on building sewers on the user's property, the control authority may notify the user in writing of the nature of the problem(s) identified on the user's building sewer and the specific steps required to bring the building sewer within the requirements of this regulation. All steps necessary to comply with this regulation must be complete within sixty (60) days from the date of the written notice and entirely at the expense of the user. (1994 Code, § 18-202)

18-203. Private wastewater disposal. (1) Necessity for private wastewater disposal system. Where a sanitary sewer is not available under the provisions of § 18-202, such toilet and other facilities necessary for the discharge of domestic and/or industrial wastewater shall be connected to a private wastewater disposal system complying with these regulations and the requirements of the appropriate federal, state and/or local regulatory agencies.

(2) Permit required for private system. Before commencement of construction of a private wastewater disposal system within the city, the owner(s) shall first obtain a written permit from the appropriate regulatory authority and furnish a copy thereof to the Ripley Gas, Water and Wastewater Department. The copy of the permit shall be accompanied by such supplemental data as deemed necessary by the control authority to maintain an accurate file of such private wastewater disposal systems to facilitate the planning of future public sewer service.

(3) Requirements for private system. The type, capacity, location and layout of a private wastewater disposal system, including methods of sludge disposal, shall comply with all requirements of the federal, state and/or local agencies having jurisdiction governing such facilities.

(4) Future connection to public sewer. At such time as a sanitary sewer becomes available to a property within the city served by a private wastewater disposal system, a direct connection shall be made to the wastewater department within thirty (30) days.

(5) Maintenance of private system. The owner(s) shall operate and maintain any private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City or Ripley Gas, Water and Wastewater Department.

(6) Holding tank waste. Holding tank waste, septage and any other wastes from private wastewater disposal systems within the city shall be discharged into the wastewater department only under the following conditions:

(a) Persons owning vacuum-pump trucks or trucks hauling septage or other liquid waste transport trucks shall not discharge wastewater directly or indirectly from such trucks into the wastewater department unless such persons shall first have been licensed by the county or state and have applied for and received wastewater haulers discharge permits from Ripley Gas, Water and Wastewater Department. All applicants for wastewater haulers discharge permits shall complete such forms as required by Ripley Gas, Water and Wastewater Department, pay appropriate fees and agree in writing to abide by the provisions of this section and any special conditions or regulations established by Ripley Gas, Water and Wastewater Department. Such permits shall be valid for a period of one (1) year from date of issuance, provided that such permits shall be subject to revocation by Ripley Gas, Water and Wastewater Department for violation of any provision of this section or reasonable regulation established by Ripley Gas, Water and Wastewater Department. Such permits shall be limited to the discharge of sanitary sewage containing no industrial wastewater. Pumpage from commercial grease traps is specifically prohibited from discharge into the wastewater department. The superintendent or an employee designated by the superintendent of Ripley Gas, Water and Wastewater Department shall designate the locations and times where such trucks may be discharged, and may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the effective operation of the wastewater department.

(b) No person shall discharge any other holding tank waste or any other waste including industrial wastewater into the wastewater department unless he shall have applied for and have been issued a permit by Ripley Gas, Water and Wastewater Department. Unless otherwise allowed under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. The permit shall state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and shall limit the wastewater constituents and characteristics of the discharge. Such user shall pay any applicable charges or fees therefor and shall comply with all conditions of the permit issued by Ripley Gas, Water and Wastewater Department. The discharge of hazardous waste, as defined by RCRA into a sanitary sewer or to the headworks of a Ripley Gas, Water and Wastewater Department Wastewater Treatment Plant by truck, rail or vessel is prohibited.

(c) Notwithstanding any of the foregoing, no holding tank waste, septage or any other waste from outside Lauderdale County,

Tennessee, shall be discharged directly or indirectly into the wastewater department from vacuum-pump, septage hauling trucks or other liquid waste transport trucks, provided, however, that the control authority may permit the discharge of such waste by agreement and in accordance with §§ 18-203(1) and (2).

(d) No person shall operate a dumping station for the discharge of sanitary sewage from recreation vehicles into the wastewater department unless the user of the dumping station shall have first applied for and received a recreational vehicle dumping station permit from Ripley Gas, Water and Wastewater Department. All applicants for recreational vehicle dumping station permits shall complete such forms as required by Ripley Gas, Water and Wastewater Department, pay appropriate fees and agree in writing to abide by the provisions of this section and any special conditions or regulations established by Ripley Gas, Water and Wastewater Department. These permits shall be issued only for approved facilities designed for and to receive sanitary sewage only.

(7) Additional requirements. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by other municipal or state agencies. (1994 Code, § 18-203)

18-204. Wastewater discharge permits. (1) Permits required for use of wastewater department. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any sanitary sewer or appurtenance thereof without first obtaining a written permit or permission from Ripley Gas, Water and Wastewater Department.

(2) Classes of wastewater discharge permit. There shall be two (2) classes of wastewater discharge permits:

(a) Permits for building sewer connections for residential, commercial, industrial or public facilities to be issued in response to wastewater service applications.

(b) Permits for food service facilities or any other entity likely to discharge grease to the Ripley Gas, Water and Wastewater Department Wastewater Department.

(i) It will be unlawful for any facility producing grease to discharge waste into the sanitary sewer collection system without authorization from the control authority. Application for approval of grease traps will be made to the control authority. If, after examining the information contained in the grease interceptor permit application, it is determined by the control authority that the proposed discharge does not conflict with the provisions of this chapter and the permit fee is paid, a permit will be issued allowing the discharge of such wastes into the sanitary sewer collection system. Each grease interceptor permit will be

issued for a time not longer than five (5) years from the date of the permit. The user will apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by Ripley Gas, Water and Wastewater Department during the term of the permit as limitations or requirements as identified in this chapter are modified or other just cause exists. The user will be informed of any proposed changes in the issued permit at least thirty (30) days prior to the effective date of the change(s). Any changes or new conditions in the permit will include a reasonable time schedule for compliance.

(ii) Permit fees. Fees for grease discharge permits shall be set by the control authority. The fees will be established to insure full cost recovery and will include but not be limited to the cost of field, administrative, engineering, and clerical expenses involved. The fees will be not less than seventy-five dollars (\$75.00) per year for each permit. The annual permit fee will be applied to the permittees' January utility bill and be paid in accordance with Ripley Gas, Water and Wastewater Departments current rate schedule.

(c) Industrial wastewater discharge permits for industrial users as defined in § 18-201(3)(mm). Industrial wastewater discharge permits and conditions and provisions of industrial wastewater discharge permits shall be based on whether or not the industrial user is a significant industrial user as defined in § 18-201(3)(xxx) and in response to an industrial wastewater discharge permit application. The control authority may deny or require conditioning of new or increased contributions of pollutants, or changes in the nature of pollutants, to the wastewater department by industrial users where such contributions do not meet applicable pretreatment standards and requirements of where such contributions would cause the wastewater department to violate its NPDES permit.

(d) Industrial wastewater discharge permits for new sources. In addition to the requirements of § 18-204(2), any person who proposes to originate the discharge of any industrial wastewater for the first time into the wastewater department or who proposes to make a significant change in the character or volume of any industrial wastewater theretofore discharged into the wastewater department:

(i) Shall apply to Ripley Gas, Water and Wastewater Department for an industrial wastewater discharge permit on the special form furnished by Ripley Gas, Water and Wastewater Department a minimum of ninety (90) days prior to the proposed date to originate this discharge into the Ripley Gas, Water and Wastewater Department Wastewater Department; and

(ii) Industrial wastewater discharge permit application contents. All users required to obtain an industrial wastewater discharge permit must submit a permit application. The control authority may require users to submit all or some of the following information as part of a permit application:

(A) The name and address of the facility, including the name of the operator and owner. Contact information, description of activities, facilities, and plant production processes on the premises;

(B) A list of any environmental control permits held by or for the facility;

(C) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the wastewater department from the regulated processes;

(D) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the wastewater department;

(E) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(F) Type and amount of raw materials processed (average and maximum per day);

(G) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(H) Time and duration of discharges;

(I) The location for monitoring all wastes covered by the permit;

(J) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the wastewater department as specified in § 18-208;

(K) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the control authority of regulated pollutants in the discharge from each regulated process. Instantaneous, daily

maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-210(11). Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard;

(L) Any other information as may be deemed necessary by the control authority to evaluate the permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision;

(M) Shall supplement the application with any information which may have been furnished by the applicant to any other governmental agency and by such other plans or other data as the control authority may reasonably require for purposes of determining whether conditions are met as specified in § 18-204(5); and

(N) Shall not discharge into the wastewater department until an industrial wastewater discharge permit has been issued by Ripley Gas, Water and Wastewater Department for the proposed new source.

(e) New source of industrial wastewater discharge. A new source of industrial wastewater shall mean any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production of wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facilities engaged in the same general type of activity as the existing source shall be considered;

(iv) Construction on a site at which an existing source is located results in a modification rather than a new source if the

construction does not create a new building, structure, facility or installation meeting the criteria of (i), (ii) or (iii) of this section but otherwise alters, replaces, or adds to existing process or production equipment;

(v) Construction of a new source as defined under this section has commenced if the owner or operator has:

(A) Begun, or caused to begin as part of a continuous on site construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

(3) Significant change in industrial wastewater discharge. A significant change in the character or volume of an industrial wastewater, for purposes of § 18-204(2)(d), shall be deemed to be proposed if:

(a) Substances, compounds and/or elements not previously constituting any part of a significant industrial user's industrial wastewater are to be introduced into such wastewater; or

(b) If the average concentration of any substance, compound or element in the wastewater or average volume proposed to be discharged will exceed the maximum values listed for approved discharge in a currently active permit for the SIU; or

(c) If the change in character or volume of the industrial wastewater will change the user's classification from user to significant industrial user as defined in § 18-201(3)(xxx).

(d) In case of doubt as to whether an intended change constitutes a significant change, it shall be the responsibility of the user intending to make such a change to make the necessary application or obtain a written ruling from the control authority that an application for a new permit is not required.

(4) Industrial wastewater discharge permits for existing industrial users. Any user, who on the effective date of these regulations is discharging industrial wastewater into the wastewater department within the meaning of § 18-201(3)(nn), may continue such discharge until notified by the control

authority writing that an industrial wastewater discharge permit will be required and until an application has been submitted to and denied by the control authority in accordance with the following provisions:

(a) The control authority shall issue written notices to existing industrial users (in such time sequence as he may determine in the light of the staff resources available to him for the processing of permit applications) specifying in each such notice the time within which an existing industrial user shall file an application for an industrial wastewater discharge permit.

(b) Within the specified time limit, the existing industrial user shall file the required application together with any other information as described in § 18-204(2)(d). Failure to file within the specified time shall constitute an unauthorized use of the wastewater department.

(c) An existing industrial user may continue to discharge, after complying with the requirement to file an application for an industrial wastewater discharge permit, unless and until receipt by the applicant of a written notice specifying the reasons for denial of a permit and specifying what remedial action, if any, must be taken to qualify the applicant for a permit.

(5) Conditions for issuing or renewing permits. An industrial wastewater discharge permit will be issued or renewed by Ripley Gas, Water and Wastewater Department only when it has been determined that:

(a) Sewer capacity is available at the proposed point of discharge for receiving the discharge of industrial wastewater; and

(b) The wastewater being discharged or proposed to be discharged is amenable to treatment by the processes employed in the Ripley Gas, Water and Wastewater Department Wastewater Treatment Plant receiving said wastewater and will not impair the ability of Ripley Gas, Water and Wastewater Department to comply with the water quality standards or effluent standards established by state or federal regulatory agencies for the various watercourses in the areas served by Ripley Gas, Water and Wastewater Department; and

(c) The wastewater being discharged or proposed to be discharged will not cause damage to the wastewater department including a wastewater treatment plant, will not constitute a hazard to humans or animals nor be capable of creating a public nuisance; and

(d) The concentrations of substances, compounds and elements in the wastewater being discharged or proposed to be discharged do not exceed the limits established by Ripley Gas, Water and Wastewater Department or state or federal authorities; and

(e) Where the wastewater contains or may contain any substances, compounds or elements controlled or limited by these regulations, an adequate program of self-monitoring of flow and wastewater characteristics will be established and maintained by the

user affected by these regulations to assure that the discharge meets the requirements of these regulations and any permit conditions. The frequency and nature of the analyses shall be commensurate with the nature and volume of the wastewater discharged and shall be as specified in the user's industrial wastewater discharge permit.

(f) The control authority will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the control authority that the applications are deficient and the nature of such deficiencies;

(g) In the event that an applicant is denied an industrial wastewater discharge permit, or if the Ripley Gas, Water and Wastewater Department fails to issue to the applicant a written grant or denial of a permit within sixty (60) days from the submission of any additional information requested from the applicant by the Ripley Gas, Water and Wastewater Department (which shall be requested within thirty (30) days after submission of the original application), the applicant may appeal directly to the board of directors in accordance with provisions specified in § 18-214(2).

(6) Permits for industries subject to national categorical pretreatment standards. Industrial wastewater discharge permits for users subject to national categorical pretreatment standards shall be issued or reissued in compliance with such standards within the time frames prescribed by such standards. Any user subject to a newly promulgated national categorical pretreatment standard shall reapply for an industrial wastewater discharge permit within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard at which time any such existing permits will expire.

(7) Permit provisions. Industrial wastewater discharge permits shall be expressly subject to all provisions of 40 CFR part 403, section 403.8(f)(1)(iii), all provisions of these regulations and all other applicable regulations established by the control authority. Permits may contain the following, at a minimum:

(a) A statement of the duration of the permit, which shall not exceed five (5) years;

(b) A statement that the permit may not be transferred without, at a minimum, prior approval of the control authority and providing a copy of the existing industrial wastewater discharge permit to the succeeding owner;

(c) Limits on average and maximum wastewater constituents and characteristics, including best management practices, based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and state and local law. The control authority may impose mass limits on users who are using unauthorized dilution to meet applicable pretreatment standards or requirements or in other cases

where the imposition of mass limits are required by the applicable national categorical pretreatment standards or are otherwise appropriate;

(d) Limits on average and maximum rates and times of discharge or requirements for flow regulation and equalization;

(e) Requirement to immediately report any noncompliance to the Ripley Gas, Water and Wastewater Department, and to immediately resample for parameters out of compliance in accordance with procedures described at 40 CFR part 403, section 403.12(g);

(f) Requirements for installation and maintenance of inspection and/or sampling facilities;

(g) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules;

(h) Compliance schedules;

(i) Requirements for submission of technical reports or discharge reports as per § 18-210;

(j) Requirements for maintaining and retaining plant records relating to wastewater discharges as specified by control authority and affording the control authority access thereto;

(k) Requirements for notification of Ripley Gas, Water and Wastewater Department 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 department;

(l) Requirements for notification of slug discharges as per §§ 18-206 and 18-207, and requirements to control slug discharge, if determined by the Ripley Gas, Water and Wastewater Department to be necessary;

(m) An application for an industrial wastewater discharge permit and all reports or information submitted pursuant to the requirements of such permit must be signed and certified by an authorized representative of such user as defined in § 18-201(3)(d);

(n) The applicable civil and criminal penalties for violation of provisions of the industrial wastewater discharge permit or this regulation; and

(o) Other conditions as deemed appropriate by the control authority to ensure compliance with these regulations.

(8) Issuing of permits. Industrial wastewater discharge permits shall be issued as follows:

(a) Industrial wastewater discharge permits for industrial users not classified as SIUs in accordance with § 18-201(3)(xxx) shall remain in effect until the users are required to reapply for permits in accordance with these regulations;

(b) Industrial wastewater discharge permits for SIUs shall be issued for specified time periods, not to exceed five (5) years. Each user shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of his existing permit;

(c) The terms and conditions of a permit may be subject to modification by the control authority during the term of the permit. A user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(d) An industrial wastewater discharge permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

(e) The provisions of an industrial wastewater discharge permit are severable and, if any provision of such permit or the application of any provision of such permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of such permit shall not be affected thereby.

(9) Discharge prohibited where permit denied. In any case where a final determination has been made denying an industrial wastewater discharge permit, either after an appeal or because a timely appeal has not been taken, it shall be unlawful for any person so denied an industrial wastewater discharge permit to discharge industrial wastewater into the Ripley Gas, Water and Wastewater Department.

(10) Permit transfer. An industrial wastewater discharge permit is issued to a specified user for a specific operation. A 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 control authority. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. Any permit transfer request must be signed and certified by an authorized representative of the succeeding user as defined in § 18-201(3)(d).

(11) Certification. All applications, reports, etc., submitted by an industrial user must include the certification that is found at 40 CFR part 403, section 403.6(a)(2)(ii) and must be signed by an authorized representative of the industrial user pursuant to requirements found at 40 CFR part 403, section 403.12(1). (1994 Code, § 18-204)

18-205. Excluded wastes. (1) General prohibitions. General prohibitions which apply to all users of the wastewater department are that:

(a) All users shall take all reasonable steps to prevent any discharges in violation of the users' permits which have reasonable likelihood of adversely affecting human health, the wastewater

department including a wastewater treatment plant, the receiving stream, or the environment.

(b) No user shall increase the use of potable or process water or in any other way attempt to dilute the discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the user's permit.

(c) 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 wastewater department. This prohibition applies to all users of the wastewater department.

(d) The discharge of hazardous waste, as defined in RCRA, into a pipeline connected to a sanitary sewer is prohibited where the sanitary sewer is dedicated exclusively to the discharge of hazardous waste.

(e) All users shall comply with the prohibitive discharge standards in the federal pretreatment regulations.

(f) No user may introduce into any POTW any pollutant(s) which may cause pass through or interference. These general prohibitions and the specific prohibitions in this section apply to each user introducing pollutants into the POTW whether or not the user is subject to other national pretreatment standards or any national, state, or local pretreatment requirements.

(g) The following pollutants are specifically prohibited from introduction into the wastewater department:

(i) Pollutants which create a fire or explosion hazard in the POTW including, but not limited to, waste streams with a closed cup flashpoint of less than sixty degrees (60°) C (one hundred forty degrees (140°) F) using the test methods specified in 40 CFR part 261, section 261.21.

(ii) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0 unless the POTW is specifically designed to accommodate such discharges.

(iii) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference.

(iv) Any pollutant, including oxygen demanding pollutants (CBOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

(v) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

(vi) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(vii) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(2) Prohibited wastes. No user shall discharge or deposit any of the following materials, waste materials, wastes, gases or liquids into any sanitary sewer forming a part of the wastewater department except where these may constitute occasional, intermittent inclusions in the wastewater discharged from residential premises:

(a) Any wastewater having a temperature which will inhibit biological activity in a wastewater treatment plant or result in other interference with the treatment processes but in no case wastewater with a temperature which exceeds sixty degrees (60°) C (one hundred forty degrees (140°) F) at its introduction into a sanitary sewer or which exceeds forty degrees (40°) C (one hundred four degrees (104°) F) at its introduction into a wastewater treatment plant.

(b) Any wastewater containing more than 100 mg/l of fat, oil or grease including any substances that will solidify or become viscous at temperatures between zero degrees (0°) C (thirty-two degrees (32°) F) and sixty degrees (60°) C (one hundred forty degrees (140°) F).

(c) Wastewater containing floatable oils, fat or greases from industrial users.

(d) Any garbage that has not been properly shredded so that no particles are greater than one-half inch (1/2") in any dimension.

(e) Any wastewater capable of causing abnormal corrosion, abnormal deterioration, damage or a hazard to structures or equipment of the wastewater department or to humans or animals or interference with proper operation of a Ripley Gas, Water and Wastewater Department Wastewater Treatment Plant. All wastewater discharged to the wastewater department must have a pH value in the range of 5.0 to 9.5 standard pH units. Prohibited materials include but are not limited to concentrated acids and bases and high concentrations of compounds of sulfur, chlorine and fluorine and substances which may react with water to form strongly acidic or basic products.

(f) Any medical waste as defined in § 18-201(3)(tt).

(g) Any wastewater with color which is not removable by an existing wastewater treatment plant and/or which causes the plant effluent to exceed color requirements of the State of Tennessee for discharge to a receiving stream.

(3) Specific prohibited wastes. No user shall discharge or deposit any of the following materials, waste materials, waste gases or liquids into any sanitary sewer forming a part of the Ripley Gas, Water and Wastewater Department Wastewater Department:

(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 wastewater department or to the operation of the wastewater department. At no time shall two (2) successive readings (fifteen (15) to thirty (30) minutes between readings) on an explosion hazard meter at the point of discharge into the wastewater department 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 covered by this subsection include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel oil, motor oil, mineral spirits, commercial solvents, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides and hydrides.

(b) Any other solid or viscous substances in quantity or character capable of causing obstruction to flow in a sanitary sewer or interference with proper operation of a wastewater treatment plant. Prohibited materials covered by this section include but are not limited to eggshells from egg processors, ashes, cinders, ceramic wastes, sand, mud, straw, shavings, thread, glass, rags, metal, feathers, bones, tar, plastics, wood, paunch manure, insulation materials, fibers of any kind, stock or poultry feeds, processed grains, viscera or other fleshy particles from processing or packing plants, lime or similar sludges.

(c) Any noxious or malodorous solids, liquids or gases which, either singly or by interaction with other wastes, are capable of creating a public nuisance or hazard to life or are or may be sufficient or prevent entry into a sanitary sewer for its maintenance and repair.

(d) Waste from commercial or industrial grease, oil or sand traps or holding tanks.

(e) Any substances, which may cause wastewater treatment plant effluent or any other products of the wastewater department such as residues, sludges or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the wastewater department cause the system to be in noncompliance with sludge use or disposal criteria, guidelines, ordinances or regulations developed by local, state or federal authorities.

(f) Any substance which will cause the wastewater department to violate its NPDES permit and/or water quality standards of the receiving stream.

(g) Any wastewater which, by interaction with other wastewater in the wastewater department, may release obnoxious gases, form total suspended solids which interfere with operation of the sanitary sewers or create conditions deleterious to structures and wastewater treatment processes.

- (h) Any form of inflow as defined in § 18-201(3)(pp) including storm water and uncontaminated thermal process wastewater.
- (i) Infiltration as defined by § 18-201(3)(oo) in excess of fifty (50) gallons per inch of pipe diameter per mile of pipe per day.
- (j) Any unpolluted wastewater as defined in § 18-201(3)(nnnn).
- (4) Specific pollutant limitations. No user shall discharge into any sanitary sewer forming a part of the Ripley Gas, Water and Wastewater Department any of the following materials in concentrations exceeding the limits stated below:
- (a) Any wastewater that contains more than ten (10) mg/l of hydrogen sulphide, sulphur dioxide or nitrous oxide.
- (b) Any toxic or poisonous substance or any other materials in sufficient quantity to interfere with the operation of a wastewater treatment plant or to constitute a hazard to humans or animals, or to cause a violation of the water quality standards or effluent standards for the watercourse receiving the effluent from a Ripley Gas, Water and Wastewater Department Wastewater Treatment Plant or to exceed limitations set forth in categorical pretreatment standards.
- (c) Any wastewater containing total suspended solids of such character and quantity that unusual provisions, attention or expense is required to handle such materials at a wastewater treatment plant.
- (d) Any wastewater containing quantities of radium or naturally occurring or artificially produced radioisotopes in excess or presently existing or subsequently accepted limits for drinking water as established by current drinking water regulations promulgated by EPA.
- (e) Any wastewater containing in excess of:
- (i) Fixed upper limits for discharge of the following pollutants into the sanitary sewer discharging into a Ripley Gas, Water and Wastewater Department Wastewater Treatment Plant by any user, in order to protect operation of the wastewater treatment plant, sludge use parameters and the receiving stream, shall be:

<u>Pollutants</u>	<u>Maximum Daily Average Concentration* (mg/l)</u>	<u>Maximum Monthly Average Concentration (mg/l)</u>
Arsenic	0.518	0.259
Copper	3.0468	1.5234
Chromium, III		Report
Chromium, VI	20.0	10.0
Chromium, Total		Report

<u>Pollutants</u>	<u>Maximum Daily Average Concentration* (mg/l)</u>	<u>Maximum Monthly Average Concentration (mg/l)</u>
Nickel	4.46	2.23
Cadmium	0.0318	0.0159
Lead	1.9986	0.9993
Mercury	0.0044	0.0022
Silver	0.069	0.0345
Zinc	5.76	2.88
Cyanide	0.4946	0.2473
Toluene	2.78	1.39
Benzene	0.0632	0.0316
1,1,1 Trichloroethane	6.82	3.41
Ethyl benzene	0.4646	0.2323
Carbon Tetrachloride	0.2892	0.1446
Chloroform	1.8602	0.9301
Tetrachloroethylene	5.44	2.72
Trichloroethylene	6.82	3.41
1,2 trans Dichloroethylene	0.0106	0.0053
Methylene Chloride	25.16	12.58
Phenols, Total	2.054	1.027
Naphthalene	0.0178	0.0089
Phthalates, Total	2.83	1.415

*Based on twenty-four (24) hour flow proportional composite samples. Sampling for all pollutants listed hereinbefore must be conducted in accordance with the requirements found at 40 CFR part 403, section 403.12(b)(5). Analyses for all pollutants listed hereinbefore must be conducted in accordance with the requirements found at 40 CFR part 136.

(5) Criteria to protect wastewater treatment plant influent. The Ripley Gas, Water and Wastewater Department shall monitor the influent to the wastewater treatment plant for each parameter listed hereafter. In the event that the influent to the wastewater treatment plant reaches or exceeds the concentration values for any parameter listed hereinafter, the Ripley Gas, Water and Wastewater Department shall initiate technical studies to determine the cause of the exceedance, and shall implement remedial measures as are necessary, included, but not limited to, the establishment of new or revised discharge limitations for any user. The Ripley Gas, Water and Wastewater Department shall re-evaluate any of these criteria in the event the wastewater treatment plant effluent standards are changed or in the event that there are changes in any applicable law or regulation affecting same or in the event changes are needed for more effective operation of the wastewater treatment plant.

Criteria to Protect Wastewater Treatment Plant Influent (Influent Protection Criteria) <u>Pollutants</u>	Maximum Daily Average <u>Concentration* (mg/l)</u>	Maximum Monthly Average Concentration <u>(mg/l)</u>
Arsenic	0.200	0.100
Copper	0.5546	0.2773
Chromium, III		Report
Chromium, VI		Report
Chromium, Total		Report
Nickel	0.5222	0.2611
Cadmium	0.0178	0.0089
Lead	0.3014	0.1507
Mercury	0.0008	0.00044
Silver	0.0125	0.00625
Zinc	0.988	0.494
Cyanide	0.092	0.046
Toluene	0.272	0.136
Benzene	0.008	0.004

Criteria to Protect Wastewater Treatment Plant Influent (Influent Protection Criteria) <u>Pollutants</u>	Maximum Daily Average <u>Concentration* (mg/l)</u>	Maximum Monthly Average Concentration <u>(mg/l)</u>
1,1,1 Trichloroethane	0.6666	0.3333
Ethylbenzene	0.0470	0.0235
Carbon Tetrachloride	0.030	0.015
Chloroform	0.1976	0.0988
Tetrachloroethylene	0.5556	0.27778
Trichloroethylene	0.6666	0.3333
1,2 trans Dichloroethylene	0.0250	0.0125
Methylene Chloride	2.50	1.25
Phenols, Total	0.20	0.10
Naphthalene	0.00358	0.00179
Phthalates, Total	0.2866	0.1433

*Based on twenty-four (24) hour flow proportional composite samples. Sampling for all pollutants listed hereinbefore must be conducted in accordance with the requirements found at 40 CFR part 403, section 403.12(b)(5). Analyses for all pollutants listed hereinbefore must be conducted in accordance with the requirements found at 40 CFR part 136.

(6) Conventional pollutants. The admission into the wastewater department of any wastewater having an Carbonaceous Biochemical Oxygen Demand (CBOD) or Biochemical Oxygen Demand (BOD) concentration in excess of two hundred (200) mg/l on a twenty-four (24) hour composite sample basis or for any single sample having a CBOD concentration in excess of four hundred (400) mg/l may require the wastewater department wastewater treatment plant to incur added operation and maintenance costs associated with treating these excessive concentrations. Therefore, any user who discharges concentrations of CBOD or BOD in excess of the concentrations listed in this section may be subject to a surcharge. The formula for this surcharge is listed in § 18-216 of this regulation.

(a) The admission into the wastewater department of any wastewater having a Total Suspended Solids (TSS) concentration in

excess of two hundred (200) mg/l on a twenty-four (24) hour composite sample basis or for any single sample having a TSS concentration in excess of four hundred (400) mg/l may require the wastewater department wastewater treatment plant to incur added operation and maintenance costs associated with treating these excessive concentrations. Therefore, any user who discharges concentrations of TSS in excess of the concentrations listed in this section may be subject to a surcharge. The formula for this surcharge is listed in § 18-216 of this regulation.

(b) The admission into the wastewater department of any wastewater having an ammonia reported as nitrogen ($\text{NH}_3\text{-N}$) concentration in excess of twenty (20) mg/l on a twenty-four (24) hour composite sample basis or for any single sample having a $\text{NH}_3\text{-N}$ concentration in excess of forty (40) mg/l may require the wastewater department wastewater treatment plant to incur added operation and maintenance costs associated with treating these excessive concentrations. Therefore, any user who discharges concentrations of $\text{NH}_3\text{-N}$ in excess of the concentrations listed in this section may be subject to a surcharge. The formula for this surcharge is listed in § 18-216 of this regulation.

(c) If a user discharges concentrations of "free" oil and grease in excess of one hundred (100) mg/l on a twenty-four (24) hour composite sample basis or for any single sample having a "free" oil and grease concentration in excess of two hundred (200) mg/l may require the wastewater department wastewater treatment plant to incur added operation and maintenance costs associated with treating these excessive concentrations. Therefore, any user who discharges concentrations of "free" oil and grease in excess of the concentrations listed in this section may be subject to a surcharge. The formula for this surcharge is listed in § 18-216 of this regulation.

(d) Oil and grease loadings were not taken into account in the design of the wastewater treatment plant; however, oil and grease are regulated under this regulation as conventional pollutants. "Free" and "emulsified" oil and grease shall be differentiated based on the following procedure. One (1) aliquot of sample shall be extracted with n-hexane in accordance with the procedures established at 40 CFR part 136, method 1664, with the exception that the sample shall not be acidified prior to the extraction. The result of this analysis will be considered "free" oil and grease. A second aliquot of sample shall be prepared in accordance with the procedures established at 40 CFR part 136, method 1664 including the adding of acid and heating until any emulsion breaks prior to the extraction. The sample shall then be extracted with n-hexane in accordance with the procedures established at 40 CFR part 136, method 1664. The result of this analysis will be considered "total" oil and grease.

"Emulsified" oil and grease will be considered the arithmetic difference between "total" and "free" oil and grease.

(e) Where necessary in the opinion of the control authority, the user shall provide and operate, at his own expense, such pretreatment facilities as may be required to reduce the convention pollutants listed under § 18-205(6) to meet the requirements of § 18-205(6).

(f) The admission into the wastewater department of any wastewater, in volumes, periods of intermittent discharge or with constituents such that existing dilution conditions in a sanitary sewer or at a wastewater treatment plant would be affected to the detriment of the wastewater department, will be subject to review and approval of the control authority. Where necessary in the opinion of the control authority, pretreatment or equalizing units may be required to bring constituents or volumes of flow within the limits previously prescribed or to an otherwise acceptable level and to hold or equalize flows so that no peak flow conditions or periods of reduced indirect discharge may hamper the operation of any unit of the wastewater department. Said equalization or holding unit shall have a capacity suitable to serve its intended purpose and be equipped with acceptable outlet control facilities to provide flexibility in operation and accommodate changing conditions in the wastewater flow.

(7) Federal categorical pretreatment standards. Upon the promulgation of federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed these regulations, shall immediately supersede the limitations imposed under these control authority regulations. All affected users shall notify the control authority of the applicable reporting requirements under 40 CFR, part 403 section 403.12.

(8) 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 of these regulations.

(9) Right of revision of limitations. The Ripley Gas, Water and Wastewater Department reserves the right to establish or revise more stringent limitations or requirements on discharges to the wastewater department, including local limits and BMPs, if deemed necessary. (1994 Code, § 18-205)

18-206. Pretreatment and accidental discharge. (1) Responsibility for pretreatment. Any person, who is denied an industrial wastewater discharge permit, who is prohibited from discharging any substance as specified in these regulations or who is required to provide pretreatment or flow equalization, shall have the sole responsibility to devise at his own expense the methods for eliminating the problem so as to make any wastewater discharge eligible for a permit or for compliance with these regulations or with federal guidelines. Such sole responsibility shall not be affected nor shall any responsibility be assumed

by the control authority, notwithstanding that the control authority may render any assistance to any person in overcoming such a problem by offering advice or suggestions.

(2) Grease removal and grease interceptor requirements.

(a) Installation requirement. All existing, proposed or newly remodeled food service facilities inside the Ripley Gas, Water and Wastewater Department wastewater service area which are likely to discharge grease to Ripley Gas, Water and Wastewater Department's sanitary sewer system will be required to install an approved, properly operated, and maintained grease interceptor.

(b) Prohibited discharge. Janitor sinks or fixtures which have potential to discharge black water to the grease interceptor will not discharge through the grease interceptor unless specifically approved, in writing, by the company.

(c) Floor drains. Only floor drains which discharge or have the potential to discharge grease will be connected to a grease interceptor.

(d) Existing food service facilities may connect any fixture to a grease interceptor, except fixtures which may discharge black water to the grease interceptor. Garbage grinder and dishwasher connections are not recommended. Food particles from garbage grinders take up storage capacity in the grease interceptor and may require that the interceptor be pumped more frequently. Dishwashers discharge hot water and soap into the interceptor which can melt grease stored inside the interceptor into the user's service line and the public sewer system where the grease hardens and causes line clogs. Any grease blockages or overflows will result in enforcement actions by Ripley Gas, Water and Wastewater Department.

(e) Proposed and remodeled food service facilities. Proposed and remodeled food service facilities may not connect janitor sinks, garbage grinders, dishwashers and black water fixtures to a grease interceptor.

(3) General criteria - location. (a) Each grease interceptor will be installed and connected so that it may be easily accessible for inspection, cleaning, and removal of the intercepted grease at any time. A grease interceptor may not be installed in any part of a building unless approved in writing by the control authority.

(b) Location of the grease interceptor will meet the approval of the control authority. The best location is in an area outside of an outside wall, but upstream from the black water drain line(s).

(4) General criteria - design. (a) Grease interceptors will be constructed in accordance with Ripley Gas, Water and Wastewater Departments standards and will have a minimum of two (2) compartments with fittings designed for grease retention. Other grease removal devices or technologies not meeting the grease interceptor

definition will be subject to the written approval of the control authority. Such approval will be based on demonstrated removal efficiencies of the proposed technology. Under the sink grease interceptors or traps will not be approved.

(b) Access to grease interceptors will be provided by two (2) manholes terminating one inch (1") above a finished grade with cast iron frame and cover. Covers will be gas tight in construction.

(c) In areas where additional weight loads may exist, the grease interceptor will be designed to have adequate load bearing capacity (example: vehicular traffic in parking or driving areas).

(d) Wastewater discharging to the grease interceptor will enter only through the inlet pipe of the interceptor. Each grease interceptor will have only one (1) inlet and one (1) outlet pipe.

(e) All grease interceptors will have a capacity of not less than one thousand (1,000) gallons nor exceed a capacity of three thousand (3,000) gallons. If the calculated capacity using the formula in § 18-206(5) exceeds three thousand (3,000) gallons, then multiple units in series will be installed.

(f) Grease interceptor designs represent minimum standards for normal usage. Installations with heavier usage require more stringent measures for which the user is responsible and will pay the costs to provide additional measures if required by Ripley Gas, Water and Wastewater Department.

(5) Grease interceptor sizing. The size of a grease interceptor will be determined by the following formula:

Restaurants:

$(S) \times (GS) \times (HR/12) \times (LF) = \text{interceptor capacity (in gallons)}$

S = Number of seats in dining area

GS = Gallons of wastewater per seat (use 20 gallons for ordinary restaurants, use 10 gallons for single service restaurants)

HR = Number of hours restaurant is open

LF = Loading factor (use 1.25 for interstate highway, 1.00 other 4-lane highway, 1.00 recreational area, 0.80 main highway and 0.50 other highways)

Other establishments with commercial kitchens:

$(M) \times (GM) \times (LF) = \text{interceptor capacity (in gallons)}$

M = Meals prepared per day

GM = Gallons of wastewater per meal (use five gallons)

LF = Loading factor (use 1.00 with dishwashing machine and 0.50 without dishwashing machine)

Examples:

1. A restaurant has seating for 125 patrons. It is located next to a freeway and operates 16 hours per day.

S ' Number of seats in dining area ' 125 seats

GS ' Gallons of wastewater per seat ' 20 gallons per seat (ordinary restaurant)

HR ' Number hours restaurant is open ' 16 hours

LF ' Loading factor ' 1.00 (freeway)

$(S) \times (GS) \times (HR/12) \times (LF)$ ' inter. capacity (gal.)

$125 \times 20 \times (16/12) \times 1.00$ ' 3,333 gallons

2. A single service restaurant has seating for 100 patrons. It is located next to a main highway and operates 16 hours per day.

S ' Number of seats in dining area ' 100 seats

GS ' Gallons of wastewater per seat ' 10 gallons per seat (single service restaurants)

HR ' Number hours restaurant is open ' 16 hours

LF ' Loading factor ' 0.80 (main highway)

$(S) \times (GS) \times (HR/12) \times (LF)$ ' inter. capacity (gal.)

$100 \times 10 \times (16/12) \times 0.80$ ' 1,067 gallons

3. A nursing home prepares 900 meals per day and has a dishwasher connected to the grease interceptor.

M ' Meals prepared per day ' 900 meals

GM ' Gallons of wastewater per meal ' 5 gal. per meal

LF ' Loading factor ' 1.00 (with dishwashing machine)

$(M) \times (GM) \times (LF)$ ' interceptor capacity (in gallons)

$900 \times 5 \times 1.00$ ' 4,500 gallons

4. A nursing home prepares 900 meals per day and has a dishwasher but it is not connected to the grease interceptor.

M ' Meals prepared per day ' 900 meals

GM ' Gallons of wastewater per meal ' 5 gal. per meal

LF ' Loading factor ' 0.50 (without dishwashing machine)

(M) x (GM) x (LF) ' interceptor capacity (in gallons)
 900 x 5 x 0.50 ' 2,250 gallons

(6) Grease interceptor maintenance. (a) All grease interceptors will be maintained by the user at the user's expense. Maintenance will include the complete removal of all contents, including floating materials, wastewater, and bottom sludges and solids. Decanting or discharging of removed waste back into the interceptor from which the waste was removed or any other grease interceptor, for the purpose of reducing the volume to be disposed, is prohibited.

(b) Pumping frequency. Grease interceptors must be pumped out completely a minimum of once every three (3) months, or more frequently as needed to prevent carryover of grease into the sanitary sewer collection system, unless it can be demonstrated to the control authority that the pumping frequency can be extended past the three (3) month period.

(c) Disposal of grease interceptor pumpage. All waste removed from each grease interceptor must be disposed of at a facility permitted by Ripley Gas, Water and Wastewater Department to receive such waste in accordance with the provisions of this chapter. In no way will the pumpage be returned to any private or public portion of the sanitary sewer collection system.

(d) Additives. Any additive(s) placed into the grease interceptor or building discharge line system on a constant, regular, or scheduled basis will be reported to the control authority. Such additives will include, but not be limited to, enzymes, commercially available bacteria, or other additives designed to absorb, purge, consume, treat, or otherwise eliminate fats, oils, and grease. The use of additives will in no way be considered as a substitution to the maintenance procedures required herein.

(e) Chemical treatments such as drain cleaners, acid and other chemicals designed to dissolve or remove grease will not be allowed to enter the grease interceptor.

(f) Manifest. All pumpage from grease interceptors must be tracked by a manifest, which confirms pumping, hauling, and disposal of waste. The user must obtain a copy of the original manifest from the hauler. The original manifest with original signatures must be left at the disposal facility. The user is required to utilize only haulers permitted by

Ripley Gas, Water and Wastewater Department and the Ripley Lauderdale County Health Department for the disposal of grease.

(g) Maintenance log. A log indicating each pumping for the previous twenty-four (24) months shall be maintained by each facility required to install a grease interceptor. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made immediately available to any representative of Ripley Gas, Water and Wastewater Department upon request.

(7) Grease, oil, sand and silt removal. Grease, oil, sand and silt removal facilities shall be provided by a user of the wastewater department when, in the opinion of Ripley Gas, Water and Wastewater Department, such facilities are necessary for the proper handling of liquid wastes containing excessive amounts of grease, oil, sand or silt. All such pretreatment facilities shall be of a type and capacity approved by Ripley Gas, Water and Wastewater Department and shall be located so as to be readily and easily accessible for cleaning and inspection.

(8) Plans and specifications for pretreatment facilities. Where pretreatment or equalization of industrial wastewater flows prior to discharge into any part of the wastewater department is required; plans, specifications, compliance schedules and other pertinent data or information relating to such pretreatment or flow control facilities shall first be submitted to the control authority for review and approval in accordance with § 18-204 of these regulations. Satisfactory evidence that the method of disposal of pretreatment sludge has the approval of the appropriate state and/or local solid waste program agencies shall be included. Such approval shall not exempt the discharge or such facilities from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority. Where pretreatment or equalization is required, an industrial wastewater discharge permit which includes a requirement for such pretreatment or equalization system shall not become effective until the installation is completed to the satisfaction of the control authority and written approval for operation is issued to the user by the control authority. Where pretreatment or equalization is mandated for an existing user, the user may continue to discharge under an existing industrial wastewater discharge permit while the new pretreatment or equalization facilities are under construction providing that:

(a) The discharge does not violate any permit conditions other than those for which the new facilities are being constructed.

(b) Construction stays within the time frame specified in the approved compliance schedule.

(c) The discharge does not adversely affect human health, the wastewater department including a wastewater treatment plant, the receiving stream or the environment. Any subsequent alteration or

addition to such pretreatment or flow control facilities shall not be made without due notice to and prior approval of the control authority.

(9) Maintenance of pretreatment facilities. If pretreatment or control of wastewater flow is required, such facilities shall be constructed, maintained in good working order and properly operated as efficiently as possible by the user at his own cost and expense, subject to the requirements of these regulations and all other applicable codes, ordinances and laws.

(10) Accidental discharge. Actions to be taken concerning accidental discharges as defined in § 18-201(3)(a) are:

(a) Each industrial user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by these regulations. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection may be required to be submitted to the control authority upon request for review and approval. Review and approval of such plans and operating procedures shall not relieve the industrial user of the responsibility to modify his facilities as necessary to meet the requirements of these regulations.

(b) If, after taking action as provided in (a) above, an industrial user fails to comply with any prohibition or limitation in these regulations, the user responsible for such accidental discharge shall immediately notify the Ripley Gas, Water and Wastewater Department so that any feasible corrective action may be taken to protect the wastewater department or to minimize adverse effects thereon. In addition, a written report, addressed to the Ripley Gas, Water and Wastewater Department, shall be filed by an authorized representative of the industrial user within five (5) days of the occurrence of the accidental discharge detailing the date, time and cause of the accidental discharge, the quantity and characteristics of the discharge and corrective action taken to prevent future accidental discharges.

(c) 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 an accidental discharge. Users shall insure that all employees who observe or who may cause or suffer such an accidental discharge to occur are advised of the emergency notification procedure. (1994 Code, § 18-206)

18-207. Flow and concentration control. (1) Discharge of slugs prohibited. No user shall discharge any wastewater in a slug as defined in § 18-201(3)(bbbb).

(2) Control of discharge rates. Any user now discharging or proposing to discharge wastewater which may include slugs as defined in § 18-201(3)(bbbb) may be required to provide facilities or adopt procedures for regulating,

controlling or equalizing the concentration of any constituent and/or the rate of wastewater discharge.

(3) Accidental discharge/slug discharge control plans. The control authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The control authority may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the control authority may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the Ripley Gas, Water and Wastewater Department of any accidental or slug discharge, as required by § 18-206 of this chapter; and
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response. (1994 Code, § 18-207)

18-208. Measurement of flow. (1) Determination of wastewater volume. The volume or quantity of industrial wastewater discharged by any user into the wastewater department shall be measured by one (1) or more of the following methods:

- (a) If the volume of water used by a user in industrial process operations is substantially the same as the volume of water secured from Ripley Gas, Water and Wastewater Department, then the volume of water purchased shall be considered to be the volume of wastewater discharged.
- (b) If a substantial portion of the water secured from Ripley Gas, Water and Wastewater Department is used for domestic purposes in a user's facility or is not returned to the wastewater department, the quantity of industrial or process wastewater shall be determined by one (1) or more of the following methods:
 - (i) By a flow meter(s) on the water supply line(s) to the industrial process operation(s); or
 - (ii) By a flow meter(s) on the wastewater line(s) from the industrial process operation(s).

(c) If a flow meter(s) required under (b) above shall have not been installed, the volume of water purchased shall be considered to be the volume of wastewater discharged unless Ripley Gas, Water and Wastewater Department approves an alternate method of determining the amount of water not discharged to the wastewater department.

(d) If any user, now discharging or proposing to discharge industrial wastewater into the wastewater department does not secure all of his water supply from Ripley Gas, Water and Wastewater Department, such user shall install and maintain a flow meter(s) on the wastewater line(s) from industrial and process operations or shall install such additional flow meters on the private water supply as required to permit determination of the total quantity discharged to the wastewater department from all sources under procedures comparable to (b) above.

(2) Provision, calibration and certification of flow meters. If a flow meter(s) is required to fulfill requirements of § 18-208(1) above, such meter(s) shall, at user expense, be provided, installed and maintained by Ripley Gas, Water and Wastewater Department.

(3) Identification of all flows required. All sources of water supply and all discharges of wastewater into the wastewater department must be identified in accordance with the provisions of § 18-208(1). Any omissions shall be considered as unauthorized use of the Ripley Gas, Water and Wastewater Department Wastewater Department. (1994 Code, § 18-208)

18-209. Monitoring facilities. (1) General requirements for monitoring facilities. Any user, who is discharging or proposes to discharge industrial wastewater into the wastewater department, shall provide, operate and maintain at the user's own expense monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. These monitoring facilities shall be as specified in the user's industrial wastewater discharge permit. The monitoring facilities should normally be situated on the user's premises but Ripley Gas, Water and Wastewater Department may, when such a location would be impractical or cause undue hardship on the user, allow the facilities to be constructed in a public street or sidewalk area and located so that they will not be obstructed.

(2) Maintenance of monitoring facilities. There shall be ample room in or near such monitoring facilities to allow accurate sampling and preparation of samples for analysis. The facilities shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(3) Continuous recording and/or sampling equipment. When deemed necessary by the control authority, continuous recording and/or sampling equipment shall be installed and maintained at user expense.

(4) Construction period. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided, in accordance with Ripley Gas, Water and Wastewater Department requirements, all

applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by Ripley Gas, Water and Wastewater Department. Additional construction time may be granted where so dictated by equipment availability.

(5) Additional facilities for present users. The control authority shall review monitoring facilities of present users and may require additional monitoring facilities as required for compliance with § 18-209(1), (2) and (3).

(6) Monitoring facilities for new users. New users shall provide monitoring facilities as specified in their industrial wastewater discharge permits prior to plant start up. (1994 Code, § 18-209)

18-210. Inspections, monitoring and reporting. (1) Periodic inspections. The industrial wastewater and/or other pollutants being discharged by any user into the wastewater department shall be subject to periodic inspection. A determination of character and strength of said wastewater may be made twice annually or more often as may be deemed necessary by the control authority and is indicated in an industrial wastewater discharge permit to ascertain whether the purposes of the regulations are being met, all requirements are being complied with and to determine the strength of wastewater for user charge computations.

(2) Reporting requirements. (a) Baseline monitoring reports. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the wastewater department shall submit to the control authority a report which contains the information listed in (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the control authority a report which contains the information listed in (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below: all information required in § 18-204(2)(d)(ii);

(c) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph;

(d) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user

should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5) this adjusted limit along with supporting data shall be submitted to the control authority;

(e) Sampling and analysis shall be performed in accordance with § 18-210(11) below;

(f) The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

(g) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the wastewater department.

(h) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 18-201(3)(d) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(i) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-210(3) of this chapter.

(j) Signature and report certification. All baseline monitoring reports must be certified in accordance with § 18-210(17) of this chapter and signed by an authorized representative as defined in § 18-201(3)(d).

(3) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-210(2)(i) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the control authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the control authority.

(4) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the wastewater department, any user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in §§ 18-204(2)(d)(ii)(A), (B), (C), (J), and (K) of this chapter. All compliance reports must be signed and certified in accordance with § 18-210(17) of this chapter. All sampling will be done in conformance with § 18-210(11) and (12).

(5) Periodic compliance reports. All significant industrial users must, at a frequency determined by the control authority, submit no less than twice per year reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user.

(a) All periodic compliance reports must be signed and certified in accordance with § 18-210(17) of this chapter.

(b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(c) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the control authority, using the procedures prescribed in § 18-210(12) of this chapter, the results of this monitoring shall be included in the report.

(6) Reports of changed conditions. (a) Each user must notify the Ripley Gas, Water and Wastewater Department of any significant changes to the user's operations or system which might alter the nature,

quality, or volume of its wastewater at least fourteen (14) days before the change.

(b) The control authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-204 of this chapter.

(7) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the Ripley Gas, Water, and Wastewater Department of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the control authority, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in § 18-210(7)(a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the Ripley Gas, Water and Wastewater Department immediately of any changes at its facility affecting the potential for a slug discharge.

(8) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the control authority as required.

(9) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the control authority within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the wastewater department performs sampling at the user's facility at least once a month, or if the wastewater department performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the wastewater department receives the results of this sampling, or if the

wastewater department has performed the sampling and analysis in lieu of the industrial user.

(10) Notification of the discharge of hazardous waste. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous wastes set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 18-210(6) of this chapter. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self monitoring requirements of § 18-204(2)(d)(ii)(K) of this chapter.

(a) Dischargers are exempt from the requirements above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one (1) time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(b) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the control authority, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(c) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and

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

(d) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(11) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the control authority, approved by administrator of the EPA.

(12) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the control authority. Where time proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in § 18-210(2)(a) and 18-210(3), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic

compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize a lower minimum. For the reports required by § 18-210(5) above, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(13) Chain-of-custody logs. Chain-of-custody logs shall be prepared and maintained for all samples. Logs shall be signed and dated by each individual who in turn collects, handles or transports, stores and/or analyzes each sample. The logs shall indicate the function of each such individual.

(14) Splitting of samples. When so requested by the industrial user, samples collected by Ripley Gas, Water and Wastewater Department will be split with the industrial user for verification of analytical results. However, determination of the character, strength or quantity of the wastewater as made by the Ripley Gas, Water and Wastewater Department shall be binding as a basis for computation of charges or for actions by the board.

(15) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(16) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the wastewater department, or where the user has been specifically notified of a longer retention period by the control authority.

(17) Certification statements. Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications; users submitting baseline monitoring reports; users submitting reports on compliance with the categorical pretreatment standard deadlines, and users submitting periodic compliance reports. The following certification statement must be signed by an authorized representative as defined in § 18-201(3)(d):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel

properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. (1994 Code, § 18-210)

18-211. Authority for inspection. (1) Right of entry. Authorized representatives of Ripley Gas, Water and Wastewater Department, bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, flow measurement, sampling and testing of industrial wastewater and other pollutants in accordance with these regulations. The control authority shall inspect the facilities of any significant industrial user at least one (1) time each year to ascertain whether the purpose of this regulation is being met and all requirements are being complied with.

(2) Ready access. Users or occupants of premises where wastewater is created or discharged shall allow Ripley Gas, Water and Wastewater Department or their representatives ready access at all reasonable times to all points on their premises where wastewater is generated or discharged into a sanitary sewer for the purposes of inspection, sampling, records examination or in the performance of any of their duties.

(3) Monitoring access. Ripley Gas, Water and Wastewater Department, the approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.

(4) Security arrangements. Where a user has security measures in force which would require proper identification and clearance before entry onto the user's premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from Ripley Gas, Water and Wastewater Department, the approval authority and EPA will be permitted to enter without delay for the purposes of performing their specific responsibilities. (1994 Code, § 18-211)

18-212. Confidential information. (1) Disclosure of information. Authorized representatives of Ripley Gas, Water and Wastewater Department are authorized to obtain information concerning industrial processes which have a direct bearing on the kinds and sources of discharges to the Ripley Gas, Water and Wastewater Department. As required by federal regulations, industrial users must disclose information on processes. As specified in 40 CFR part 2, section 2.302, information considered as effluent data or a standard or limitation is not eligible for confidential treatment; therefore, information which identifies the character or volume of the discharge may not be considered as confidential.

All other information which is submitted to the Ripley Gas, Water and Wastewater Department shall be available to the public at least to the extent provided by *Tennessee Code Annotated*, §§ 10-7-501, *et seq.*

(2) Protection of confidential information. In the event Ripley Gas, Water and Wastewater Department is subjected to legal processes that requires Ripley Gas, Water and Wastewater Department to release proprietary information designated by the industry as confidential, then the industry will protect and hold Ripley Gas, Water and Wastewater Department harmless from damages and injuries including attorney fees and court cost arising from denial of the information. (1994 Code, § 18-212)

18-213. Protection of equipment. No person shall maliciously, willfully or negligently break, damage, destroy, deface, tamper with or remove any equipment or materials which are a part of the Ripley Gas, Water and Wastewater Department or which are used by Ripley Gas, Water and Wastewater Department for the purposes of making wastewater examinations and wastewater flow measurements or monitoring. Only persons authorized by the Ripley Gas, Water and Wastewater Department will be allowed to uncover, adjust, maintain and remove such equipment and materials. (1994 Code, § 18-213)

18-214. Reviewing authority. (1) Reviewing authority. The Board of Directors of the Ripley Gas, Water and Wastewater Department of the City of Ripley, Tennessee, shall be the reviewing authority for all appeals of actions or administrative determinations made by the President of Ripley Gas, Water and Wastewater Department under the provisions of these regulations. Notice of an intent to appeal and request for a hearing shall detail the nature of the appeal. An early date for such hearing shall be set by the board, and the appellant promptly notified in writing. The decision of the board after such hearing shall be final and conclusive and shall be conveyed to the persons involved in writing.

(2) Review of permit denial or conditions of issued permit. Procedures to request a review of a permit denial or of conditions of a permit shall be as follows:

(a) An applicant whose permit is denied or is granted subject to conditions he deems unacceptable, shall have the right to a hearing before the Ripley Gas, Water and Wastewater Department or a hearing officer appointed by the Ripley Gas, Water and Wastewater Department. The applicant shall request a hearing in writing. The request shall be delivered to the Ripley Gas, Water and Wastewater Department within thirty (30) days of the notice of final decision to grant or deny the permit and shall set forth the specific nature of the issues the applicant is contesting. Hearings under this section shall be held in accordance with procedures prescribed by Ripley Gas, Water and Wastewater Department.

(b) The decision of a hearing officer made under subsection (a) above may be appealed by any party to the board. Notice of appeal shall be made in writing within ten (10) days of the decision of the hearing officer. Notice shall be filed in the office of the Ripley Gas, Water and Wastewater Department and shall be served on all parties. Appeal hearings shall be held in accordance with procedures prescribed by Ripley Gas, Water and Wastewater Department. (1994 Code, § 18-214)

18-215. Enforcement, penalties and costs. (1) Enforcement actions. The control authority shall have the administrative authority to enforce this chapter. Whenever the control authority finds that any user has violated or is violating section(s) of these regulations, conditions of an industrial wastewater discharge permit or applicable state or federal regulations, the control authority will implement Ripley Gas, Water and Wastewater Department's Enforcement Response Plan as described in § 18-215(7). Each day on which a violation occurs or continues shall constitute a separate and distinct violation hereunder.

(2) Violations. Violations subject to enforcement action encompass the following:

(a) An accidental discharge as defined in § 18-201(3)(a).

(b) Any failure by a user to notify the control authority of an accidental discharge in accordance with provisions of § 18-206(10)(b) shall constitute a separate and distinct violation hereunder.

(c) Every user in violation of the provisions of these regulations, conditions of an industrial wastewater discharge permit or applicable state and federal laws and regulations, or who furnishes false information relative to use of the wastewater department, whether the user directly commits the act(s) or aids and abets same and whether present or absent may be held liable as a principal.

(d) An upset as defined in § 18-201(3)(mmmm) may constitute an affirmative defense to an enforcement action brought against it alleging a violation of any of the prohibitions established in § 18-205 where the user can demonstrate that:

(i) He did not know or have reason to know that his discharge, alone or in conjunction with a discharge or discharges from other sources would cause pass through and/or interference; and

(ii) A local limit designed to prevent pass through and/or interference, as the case may be, was established in the user's industrial wastewater discharge permit for each pollutant that caused pass through or interference and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or

(iii) If a local limit designed to prevent pass through and/or interference, as the case may be, has not been developed for

the pollutant(s) that caused the pass through and/or interference, the user's discharge directly prior to and during the pass through and/or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

(e) Nothing in the user's permit shall be construed to relieve a user from administrative or criminal penalties for noncompliance with provisions of his permit.

(f) It shall not be a defense for a user in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of the user's permit.

(3) Actions by the control authority. If a user of the Ripley Gas, Water and Wastewater Department proposes to discharge, discharges or accidentally discharges wastewater in a manner that is in violation of any section of these regulations and/or violates any other conditions of these regulations and/or any condition of his industrial wastewater discharge permit, the Ripley Gas, Water and Wastewater Department may take any one (1) or a combination of the following enforcement actions:

(a) Prohibit the discharge of such wastewater or substances.

(b) Require the user to demonstrate that in-plant modifications will reduce or eliminate the discharge of such wastewater or substances so as to place the discharge in conformity with these regulations.

(c) Require pretreatment, which may include storage facilities or flow equalization, necessary to reduce or eliminate the objectionable wastewater characteristics or substances so that the discharge will not violate these regulations.

(d) Require the user to cease, correct and rectify other violations.

(e) Take such other remedial action as may be deemed to be desirable or necessary to achieve the purposes of these regulations including the revocation of his industrial wastewater discharge permit and the termination of service.

(f) Emergency suspension of services. Ripley Gas, Water and Wastewater Department may suspend water or sewer service when such suspension is necessary, in the opinion of the control authority, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment; causes or has the potential to cause stoppages or excessive maintenance to be performed to prevent stoppages in the sanitary sewer collection system; causes or has the potential to cause interference to the POTW; or causes or has the potential to cause

Ripley Gas, Water and Wastewater Department to violate any condition of its NPDES permit.

Any person notified of a suspension of the water or sewer service should immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, Ripley Gas, Water and Wastewater Department shall take such steps as deemed necessary, including immediate termination of water or sewer service, to prevent or minimize damage to the POTW system or sewer connection or endangerment to any individuals. Ripley Gas, Water and Wastewater Department shall reinstate the water or sewer service when such conditions causing the suspension have passed or been eliminated.

A detailed written statement submitted by the user describing the cause(s) of the harmful discharge and the measure(s) taken to prevent any future occurrence shall be submitted to Ripley Gas, Water and Wastewater Department within fifteen (15) days of the date of occurrence.

(g) Notice of violation. Ripley Gas, Water and Wastewater Department may serve upon any user a written notice stating the nature of violation. Within fifteen (15) days of the date of notice, a plan for the satisfactory correction thereof shall be submitted to the control authority by the user.

(4) Appeals. Procedures for any appeal of actions or administrative determinations made by the Ripley Gas, Water and Wastewater Department under the provisions of these regulations shall be as specified in § 18-214.

(5) Actions by the board. If the Ripley Gas, Water and Wastewater Department fails to obtain cooperation and compliance with an enforcement action as outlined in § 18-215(3), the superintendent shall submit a report to the board outlining details of the violation, consequences of allowing the violation to continue and steps taken toward correcting the violation. Upon receiving a report from the Ripley Gas, Water and Wastewater Department, the board may order such user to show cause before the board why proposed enforcement action should not be taken. Procedures used by the board shall be as follows:

(a) A reasonable notice shall be delivered to the user showing:

(i) The date, hour and place of a hearing to be held regarding the alleged violation and proposed enforcement action; and

(ii) A reference to the particular section or sections of these regulations which are involved; and

(iii) A short statement of the factual allegations; and any proposed enforcement action; and direction that the user show cause why the proposed enforcement action should not be taken.

(b) Notice of the hearing shall be delivered to the user personally or mailed by registered or certified mail, return receipt

requested, to the user or an authorized representative of the user at least ten (10) days prior to the hearing.

(c) The board may itself conduct the hearing or may designate any one (1) or number of its members to conduct the hearing as a hearing officer or officers.

(d) When it is impracticable for a hearing officer to conduct the hearing, another hearing officer may be assigned to continue with the case unless it is shown that substantial prejudice to a party will result therefrom, in which event a new hearing shall be held or the case dismissed without prejudice.

(6) Power of the hearing officer and board. (a) Hearings. During the course of a hearing and in preparation therefore, the board or any hearing officer(s) designated to conduct the hearing may:

- (i) Administer oaths and affirmations; and
- (ii) Issue, in the name of the board, notice of the hearing to persons calling for their attendance, testimony and production of evidence relevant to any matter involved in such hearing; and
- (iii) Regulate the course of the hearing, and set the time and place for continued hearings; and
- (iv) Hear the evidence.

(b) Places of hearings. Any hearing held pursuant to these regulations, shall be held in the Ripley Gas, Water and Wastewater Department Office unless the board, hearing officer or majority of hearing officers designated to conduct the hearing determines that the obtaining of evidence will be better facilitated by holding the hearing at the site of the alleged violation of these regulations or such other place within the city as the board or hearing officer(s) may deem appropriate.

(c) Conduct of hearings. Any hearing, held pursuant to this section, shall be conducted as follows:

- (i) A user, who is a party to a board action, may file a written answer with the board before the date set for the hearing.
- (ii) If a user, who is a party to a board action, fails to appear after notice has been served or properly mailed and if no adjournment is granted, the board may proceed with the hearing and make its decision in the absence of the party.
- (iii) At any hearing held pursuant to this section, testimony taken must be recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- (iv) A user, who is a party to a board action, shall be given an opportunity to present arguments on issues of law and an opportunity to present evidence on issues of fact.

(v) A user, who is a party to a board action, may cross-examine any witness. A party may submit rebuttal evidence.

(vi) At the conclusion of a hearing conducted by a hearing officer(s), the officer(s) shall transmit a report of the hearing together with recommendations to the board for action thereon.

(vii) At the conclusion of a hearing conducted by the board or upon receipt by the board of a report of a hearing from a hearing officer(s), the board shall take action pursuant to (vi) above.

(d) Final board decisions. The board shall make a final order. The order shall be made after review of the official record as defined in (e) below, shall be in writing and shall include findings of fact and conclusions.

(i) Findings of fact shall be based exclusively on the evidence and on matters officially noticed by the board or hearing officer(s); and

(ii) An order shall not be made except upon consideration of the record as a whole or such portion thereof as may be cited by any party to the hearing and shall be supported by the evidence; and

(iii) A copy of the order shall be served upon each party personally or by registered or certified mail, return receipt requested, and a copy furnished to the attorney of record.

(e) The official record of a hearing shall include:

(i) Notices, motions and intermediate rulings; and

(ii) Questions and offers of proof, objections and rulings thereon; and

(iii) Evidence presented; and

(iv) Matters officially noticed, except matters so obvious that a statement of them would serve no useful purpose; and

(v) Proposed findings and exceptions, if any; and

(vi) Any decision, opinion, order, transmittal or report by the officer presiding at the hearing and by the board.

(f) Penalties. If in its order, the board finds the user is in violation of, fails to comply with or has failed to comply with any of the provisions of these regulations including the willful furnishing of false information relative to same, it may, in addition to invoking the enforcement actions set forth in § 18-215(3):

(i) Subject the user to an administrative penalty of not more than ten thousand dollars (\$10,000.00) for each violation to be recovered by the board in a civil action in the nature of a debt if the user does not pay the penalty within a prescribed period of time after he has been found to be in violation of these regulations.

The amount of the administrative penalty shall be determined by the procedures presented in § 18-215(3).

When a user has been assessed an administrative penalty by the board, he shall be notified of the assessment personally or by registered or certified mail, return receipt requested.

(ii) In addition to the penalty provided in (i) above and the enforcement actions detailed in § 18-215(3), the board may:

(A) Require the user making, causing or allowing the violation to pay costs or expenses incurred by Ripley Gas, Water and Wastewater Department which expenses may include, but not be limited to, damage to the wastewater department, extraordinary monitoring of the wastewater and extraordinary treatment measures or processing imposed on a wastewater treatment plant by said violation; and

(B) Require the user making, causing or allowing the violation to pay any costs or expenses incurred by Ripley Gas, Water and Wastewater Department for any fines or penalties imposed on Ripley Gas, Water and Wastewater Department by the state or federal government or agency thereof because of a violation of a Ripley Gas, Water and Wastewater Department NPDES permit or damage to the environment that is attributed to said violation; and

(C) Require the user making, causing or allowing the violation to furnish a bond or other security, with terms specified by the board, to hold Ripley Gas, Water and Wastewater Department harmless from any loss or expense that Ripley Gas, Water and Wastewater Department may incur as a result of such noncompliance or any future noncompliance; and

(D) Recover reasonable attorney's fees and expenses incurred by the board as a result of its employing legal counsel to assist the President of Ripley Gas, Water and Wastewater Department in taking action pursuant to these regulations.

(g) If the user assessed fails to pay the amount of the administrative penalty or assessment to Ripley Gas, Water and Wastewater Department within thirty (30) days after receipt of notice, or such longer period, not to exceed one hundred eighty (180) days, as the board may specify; the board may institute a civil action to recover the amount of the penalty or assessment in the General Court of Justice of Lauderdale County or, at the discretion of Ripley Gas, Water and Wastewater Department, in the county in which is located a principal place of business of the user assessed.

(7) Emergency enforcement actions. (a) If the control authority determines that an action, a potential action or a continuing action of a

user may create a potential for damage to the wastewater department, the receiving stream, the environment, life or health of humans or animals or an interference with treatment processes at a wastewater treatment plant: the control authority may recommend to the board enforcement of these regulations as they apply to said violation by said user by seeking an appropriate equitable remedy issuing from a court of competent jurisdiction.

(b) The board may, without providing prior notice to said user, request enforcement of these regulations as they apply to said violation by said user by seeking an appropriate equitable remedy issuing from a court of competent jurisdiction.

In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate and it shall not be a defense to the application of the board for equitable relief that there is an adequate remedy at law.

(8) Enforcement response plan. The Ripley Gas, Water and Wastewater Department Enforcement Response Plan is designed to insure uniform application of the enforcement actions presented in this section.

ENFORCEMENT RESPONSE PLAN

(a) Unauthorized Discharges

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
1.	Unpermitted discharge	Industrial user unaware of requirement; (no harm)	Phone call	Environmental coordinator
			Notice of violation with application	
		Industrial user aware of requirement or harm to POTW or environment	Administrative order	Environmental coordinator
			Civil action	Superintendent
		Failure to apply continues after application deadline set by POTW	Administrative penalty	Superintendent
			Civil action	
			Show cause hearing	Board

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
			Service termination	Superintendent
2.	Non-permitted discharge (failure to renew or request transfer)	Application not submitted within 10 days of due date	Phone call	Environmental coordinator
			Notice of violation	
		Failure to apply continues after deadline set in notice by POTW	Administrative penalty	Superintendent
			Civil action	
			Show cause hearing	Board
			Service termination	Superintendent

(b) Discharge Limit Violations

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
1.	Exceeding local or federal standard (permit limit)	Isolated, not significant	Phone call	Environmental coordinator
			Notice of violation	
			Conference	Superintendent
		Isolated, significant (no harm)	Phone call	Environmental coordinator
			Notice of violation	
			Conference	Superintendent
		Isolated, emergency (actual harm or potential harm to POTW or environment)	Administrative order to cease and desist	Environmental Coordinator
			Administrative penalty	Superintendent
			Show cause order	Board
			Civil action	Superintendent

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
		Recurring, (not significant)	Administrative order	Environmental coordinator
			Administrative penalty	Superintendent
		Recurring, (significant no harm)	Administrative order	Environmental coordinator
			Administrative penalty	Superintendent
			Show cause order	Board
		Recurring, (actual harm or potential to harm POTW or environment)	Administrative penalty	Superintendent
			Show cause order	Board
			Civil action	Superintendent
			Terminate service	

(c) Monitoring and Reporting Violations

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
1.	Reporting violation	Report is improperly signed or certified	Phone call	Environmental coordinator
			Notice of violation	
		Report is improperly submitted after POTW notification	Administrative order	Environmental coordinator
			Show cause order	Board

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
		Report is less than 30 days late	Phone call	Environmental coordinator
			Notice of violation	
		Report is 30 days or more	Administrative order	Environmental coordinator
		Recurring late reports or no reports at all	Administrative	Superintendent
			Show cause order	Board
			Civil action	Superintendent
		Failure to report spill or changed discharge (no harm)	Notice of violation	Environmental coordinator
		Failure to report spill or changed discharge (harm)	Administrative	Superintendent
			Show cause action	Board
			Civil action	Superintendent
		Recurring failure to report spills	Show cause order	Board
			Civil action	Superintendent
			Terminate service	
		Report falsification	Show cause order	Board
			Civil action	Superintendent
			Criminal action	
			Terminate service	
2.	Failure to monitor correctly	Failure to monitor all pollutants as required by permit	Notice of violation	Environmental coordinator
			Administrative order	

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
		Recurring failure to monitor correctly	Administrative penalty	Superintendent
			Show cause order	Board
			Civil action	Superintendent
		Failure to report additional monitoring	Notice of violation	Environmental coordinator
		Recurring failure to report additional monitoring	Administrative penalty	Superintendent
			Show cause order	Board
3.	Improper sampling	Unintentionally using incorrect sampling type, incorrect sample technique, or sampling at incorrect location	Notice of violation	Environmental coordinator
		Evidence of intent or recurring	Show cause order	Board
			Civil action	Superintendent
4.	Failure to resample	Must resample within 30 days of violation	Terminate service	
			Notice of violation	Environmental coordinator
			Administrative order	

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
5.	Failure to install monitoring equipment	Delay of less than 30 days	Notice of violation	Environmental coordinator
		Delay of 30 days or more	Administrative penalty	Superintendent
		Recurring violation of administrative order	Show cause order	Board
			Civil action	Superintendent
			Terminate service	
6.	Inadequate record keeping	Incomplete files or files missing	Notice of violation	Environmental coordinator
		Recurring	Administrative order; show cause order	
			Show cause order	Board

(d) Other Permit Violations

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
1.	Compliance schedules	Missed milestone by less than 30 days, or will not affect final milestone	Notice of violation	Environmental coordinator
		Missed milestone will affect final milestone (good reason for delay)	Administrative order	
			Show cause order	Board

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
		Missed milestone will affect final milestone (no good reason for delay)	Show cause order	Board
			Civil action	Superintendent
			Terminate service	
		Recurring violation of schedule	Show cause order	Superintendent
			Civil action	
			Terminate service	
2.	Waste streams diluted in lieu of treatment	Initial violation	Administrative order	Environmental coordinator
		Recurring violations	Show cause order	Board
			Civil action	Superintendent
			Terminate service	
3.	Failure to mitigate noncompliance or halt production	No harm to POTW or environment	Notice of violation	Environmental coordinator
			Administrative order	
		Harm to POTW or environment	Administrative penalty	Superintendent
			Show cause order	Board
			Civil action	Superintendent
4.	Failure to properly operate and maintain pretreatment facility	No harm to POTW or environment	Notice of violation	Environmental coordinator
			Administrative order	
		Harm to POTW or environment	Administrative penalty	Superintendent
			Show cause order	Board
			Civil action	Superintendent

	TYPE OF NONCOMPLIANCE	NATURE OF THE VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
5.	Entry denial	Entry or copies of records denied or consent withdrawn	Return with administrative order or warrant	Environmental coordinator

(e) Administrative penalty structure. The administrative penalty structure is a five (5) tier stepped system and is set up where minimum amounts are assessed when there is no harm to the POTW or the environment. Maximum amounts are to be assessed when there is harm to the POTW or the environment or where the subject violation causes the POTW to violate a permit condition. Interim amounts may be assessed at the discretion of Ripley Gas, Water and Wastewater Department as violation circumstances warrant. The actual penalty amount to be assessed shall be computed in accordance with (f) below; penalty assessment guidelines. A Tier I penalty will be assessed when no administrative penalty violation or penalty triggering civil action has occurred in the previous twelve (12) months. The industrial user will step up a tier each time a violation occurs within twelve (12) months of a previous administrative penalty or a penalty triggering civil action. In cases where there is harm or potential harm to the POTW or the environment or in other extreme cases, one (1) or more tiers may be skipped in order to bring the industrial user into compliance.

Tier I	\$50.00	\$100.00	
Tier II	\$50.00	\$100.00	per violation
Tier III	\$100.00	\$500.00	per violation
Tier IV	\$500.00	\$1,000.00	per violation
Tier V	\$1,000.00	\$10,000.00	per violation

These penalties are in addition to assessed reimbursement costs as specified in § 18-215(5)(f) of these regulations for legal fees, equipment repair or replacement, any additional monitoring the POTW is required to do and any penalties assessed to the POTW resulting from the subject violation.

(f) Penalty assessment guidelines. The tier structure presented in (e) above provides a penalty range for specific violations. To determine

the actual penalty, the following penalty assessment guidelines shall apply:

- (i) Locate the type of noncompliance in the enforcement response guide.
- (ii) Select the most accurate "nature of the violation."
- (iii) Determine the appropriate enforcement response that coincides with the nature of the violation.
- (iv) If a penalty is involved, assign the proper tier to determine the penalty range.
- (v) To compute the actual amount of the penalty:
 - (A) The magnitude of the violation;
 - (B) Its duration;
 - (C) Its effects on the wastewater department and/or the environment;
 - (D) The compliance history of the user; and
 - (E) Good faith efforts of the user to avoid the violation and to correct the problem leading to the violation will be rated using a penalty assessment form as reproduced on the next page of these regulations.
- (vi) Each of these five (5) criteria will be assigned a numerical value from zero percent (0%) (minimum violation) to one hundred percent (100%) (maximum violation).
 - (A) Total the five (5) items of criteria and obtain an average criteria rating.
 - (B) Multiply the average criteria rating as a decimal by the difference between the minimum and maximum penalty associated with the proper tier level.
 - (C) Add this amount to the minimum penalty in the applicable tier. This is the amount of the penalty to be assessed.

PENALTY ASSESSMENT FORM
The Ripley Gas, Water and Wastewater Department of
The City of Ripley, Tennessee

INDUSTRY _____ DATE _____

- (1) Locate the type of noncompliance in the Enforcement Response Guide.
- (2) Select the most accurate "nature of the violation."
- (3) Determine the appropriate enforcement response that coincides with the nature of the violation.
- (4) If a Penalty is involved, assign the proper tier to determine the penalty range.
- (5) To calculate the total amount of the penalty, the criteria of magnitude, duration, effects, compliance history, and good faith will each be assigned a numerical value of from zero percent (0%) (minimum violation) to one hundred percent (100%) (maximum violation).
- (6) Total the five items of criteria and obtain an AVERAGE CRITERIA RATING.
- (7) Multiply the AVERAGE CRITERIA RATING as a decimal by the difference between the minimum and maximum penalty associated with the proper tier level.
- (8) Add this amount to the minimum penalty in the applicable tier. This is the amount of the penalty to be assessed.

<u>CRITERIA</u>	<u>CRITERIA RATING</u>	<u>COMMENTS</u>
Magnitude	_____	_____
Duration	_____	_____
Effects	_____	_____
Compliance History	_____	_____
Good Faith	_____	_____
Total	_____	Average Criteria Rating _____
Penalties past 12 months? _____		Tier Level _____
Penalty Range _____		Total Penalty Amount _____
APPROVED BY _____		DATE _____

(vii) When a violation cannot be categorized in the guide, equivalent enforcement actions will be as specified in this section.

(A) Definitions of enforcement responses are:

(1) Notification by Ripley Gas, Water and Wastewater Department. Informal contact by Ripley Gas, Water and Wastewater Department utilizing telephone or personal contact with notification verification placed in file, memo, or letter for minor violations.

(2) Notice of Violation (NOV). A written notice from Ripley Gas, Water and Wastewater Department to a noncompliant user, which informs the user that a violation has occurred.

(3) Administrative Order (AO). An administrative order may consist of a:

(a) Cease and desist order. Directs a non-compliant user to cease illegal or unauthorized discharge immediately or to terminate its discharge altogether. To be used for non-emergency and emergency situations.

(b) Consent order. An agreement between Ripley Gas, Water and Wastewater Department and an industrial user that contains three (3) elements:

(i) Compliance schedules;

(ii) Stipulated fines or remedial actions; and

(iii) Signatures of the president of company and an authorized representative of an industrial user.

(c) Compliance order. A directive from Ripley Gas, Water and Wastewater Department to a non-compliant industrial user that contains three (3) elements:

(i) Compliance schedules;

(ii) Stipulated fines or remedial actions; and

(iii) Signature of the Superintendent of Ripley Gas, Water and Wastewater Department. A compliance order may also be used to require an industrial user to develop a management practices plan, a spill prevention program and/or related

control authority pretreatment program requirements.

(d) Show cause order. Formal meeting requiring a noncompliant user to appear and demonstrate why Ripley Gas, Water and Wastewater Department should not take a proposed enforcement action against it. The meeting may also serve as a forum to discuss corrective actions and compliance schedules.

(4) Administrative penalties. Monetary penalties assessed by Ripley Gas, Water and Wastewater Department for violations of pretreatment standards and requirements included as an adjunct to one (1) of the above-defined administrative orders. They are to be used as an escalated type of response to significant or continued noncompliance and/or failure to meet established milestones. Tier 3, Tier 4 and Tier 5 administrative penalties shall be submitted to the board of directors for concurrence before being assessed. In addition to administrative penalties, recovery of damages, assessments and extraordinary expenses will also be used as enforcement tools as well as for recovering expenses incurred by Ripley Gas, Water and Wastewater Department.

(5) Termination of wastewater service. The revocation of an industrial user's privilege to discharge industrial wastewater into the wastewater department. Termination may be accomplished by physical severance of the industry's connection to a sanitary sewer, by issuing a cease and desist order which compels the user to terminate its discharge, or by a court ruling.

(6) Civil action. The formal process of filing a lawsuit against an industrial user to secure court ordered action when the control authority determines that emergency enforcement actions are necessary or to correct continued significant noncompliance by seeking equitable relief, monetary penalties, and actual cost of damages to the wastewater department.

(7) Criminal action. The formal process of filing charges to be used where there is evidence of criminal intent or in extreme recurring cases.

(8) The Environmental Coordinator for Ripley Gas, Water and Wastewater Department is responsible for determining that a violation has occurred and what type of enforcement response is required.

(9) Time frames for determining that a violation has occurred and for issuing the requisite enforcement responses are listed below:

(a) All violations will be identified and documented within five (5) days of receiving noncompliance information.

(b) Initial enforcement response will be to contact with the industrial user to request information on corrective or preventative action(s) and is to occur within fifteen (15) days of violation detection.

(c) Follow up actions for continuing or reoccurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.

(d) Violations which threaten health, property, or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or termination of service.

(e) All violations meeting the criteria for significant noncompliance will be addressed with an enforcement order within thirty (30) days of the identification of significant noncompliance.

(9) Publication of lists of significant violations. Any and all significant violations of provisions of these regulations and a list of resulting enforcement actions taken by Ripley Gas, Water and Wastewater Department shall be published in the largest local daily newspaper in circulation in the city. A significant violation is as defined in § 18-201(3)(www). (1994 Code, § 18-215)

18-216. Fees. (1) User charges and fees. It is the purpose of this section to provide for the recovery of costs from users of the Ripley Gas, Water and Wastewater Department for the implementation of the program established herein and for the construction, operation and maintenance of said system.

Ripley Gas, Water and Wastewater Department will adopt and modify from time to time separate rate schedules and fees to supplement these regulations.

(2) User charge and fee schedules. All charges, fees and other penalties shall be published in schedules separate from these regulations and may be revised from time to time as Ripley Gas, Water and Wastewater Department finds necessary for maintenance of the purposes described in subsection (1) above.

(3) Surcharge fees. If a user discharges in excess of the criteria to protect the POTW treatment plant influent set out for the conventional pollutants CBOD or BOD, TSS, $\text{NH}_3\text{-N}$, and/or "free" oil and grease in § 18-205 of this regulation, additional operation and maintenance costs may be incurred by the wastewater department wastewater treatment plant. Therefore, any user who discharges in excess of the limits for any of these parameters may be subject to a surcharge. The formula for this surcharge is listed below. Surcharges shall be in addition to normal user fees. As an alternate to this formula, the city may calculate surcharge fees based on actual costs caused by the discharge of excessive strength conventional pollutants.

$$\left[\begin{array}{l} \text{Base sewer} \\ \text{bill for} \\ \text{monthly} \\ \text{usage} \end{array} \right] \times \frac{\begin{array}{l} \text{Actual monthly average of} \\ \text{conventional pollutant} \\ \text{concentration (mg/l)} \end{array}}{\begin{array}{l} \text{Conventional pollutant criteria to} \\ \text{protect the POTW influent} \end{array}} \left[\begin{array}{l} \text{Base} \\ \text{sewer} \\ \text{bill for} \\ \text{monthly} \\ \text{usage} \end{array} \right] - \begin{array}{l} \text{Base} \\ \text{sewer} \\ \text{bill for} \\ \text{monthly} \\ \text{usage} \end{array}$$

(1994 Code, § 18-216)

18-217. Special agreements. Nothing contained in these regulations shall be construed as preventing the execution of a contract, special agreement or arrangement between the board and any user whereby wastewater of unusual strength, character or quantity may be admitted into the wastewater department upon such terms and conditions as the board deems appropriate. (1994 Code, § 18-217)

18-218. Amendments. The board expressly reserves the right to amend, modify, rescind, or supplement these regulations. (1994 Code, § 18-220)

CHAPTER 3

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.

SECTION

- 18-301. Objectives.
- 18-302. Definitions.
- 18-303. Compliance with *Tennessee Code Annotated*.
- 18-304. Regulated.
- 18-305. Permit required.
- 18-306. Inspections.
- 18-307. Right of entry for inspections.
- 18-308. Correction of violations.
- 18-309. Required devices.
- 18-310. Non-potable supplies.
- 18-311. Statement required.
- 18-312. Penalty; discontinuance of water supply.
- 18-313. Provision applicable.

18-301. Objectives. The objectives of this chapter are:

- (1) To protect the public potable water system of Ripley Water System from the possibility of contamination or pollution by isolating within the customer's internal distribution system, such contaminants or pollutants that could backflow or backsiphon into the public water system;
- (2) To promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-house potable water system and non-potable water systems, plumbing fixtures, and industrial piping systems; and
- (3) To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination or pollution of all potable water systems. (1994 Code, § 18-301)

18-302. Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this section:

- (1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than six (6") inches. Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than six inches (6").
- (2) "Atmospheric vacuum breaker" shall mean a device, which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" shall mean any water supply, on or available to a premises, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

(4) "Backflow" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross-connection.

(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, steam and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross-connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross-connections.

(9) "Double check detector assembly" shall mean an assembly of two (2) independently operating, approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(10) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(11) "Fire protection systems" shall be classified in six (6) different classes in accordance with *AWWA Manual M14 - Second Edition 1990*. The six (6) classes are as follows:

(a) Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind;

all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

(b) Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

(c) Class 3 shall be those with direct connection from public water supply mains, plus one (1) or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

(d) Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within one thousand seven hundred feet (1,700') of the pumper connection.

(e) Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

(f) Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" shall mean any system of piping or other arrangements whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device, which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(13) "Manager" shall mean the Manager of the Ripley Water System or his duly authorized deputy, agent or representative.

(14) "Person" shall mean any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(15) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(16) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(17) "Public water supply" shall mean the Ripley Water System, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(18) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two (2) check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(19) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e., the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use. (1994 Code, § 18-302)

18-303. Compliance with *Tennessee Code Annotated*. The Ripley Water System shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Ripley Water System shall comply with *Tennessee Code Annotated*, § 68-221-711, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross-connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, ongoing program to control these undesirable water uses. (1994 Code, § 18-303)

18-304. Regulated. (1) No water service connection to any premises shall be installed or maintained by the Ripley Water System unless the water supply system is protected as required by state laws and this chapter. Service of water to any premises shall be discontinued by the Ripley Water System if a backflow prevention device required by this chapter is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) It shall be unlawful for any person to cause a cross-connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such

cross-connection is at all times under the direction of the manager of the Ripley Water System.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s), by a private contractor, at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required, and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Ripley Water System shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this chapter. (1994 Code, § 18-304)

18-305. Permit required. (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Ripley Water System for approval.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from the Ripley Water System. (1994 Code, § 18-305)

18-306. Inspections. The manager or his designated agent shall inspect all properties served by the public water supply where cross-connections with the public water supply are deemed possible. The frequency of inspections and re-inspection shall be based on potential health hazards involved, and shall be established by the Ripley Water System in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation. (1994 Code, § 18-306)

18-307. Right of entry for inspections. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Ripley Water System public water

system for the purpose of inspecting the piping system therein for cross-connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections, and shall be grounds for disconnection of water service. (1994 Code, § 18-307)

18-308. Correction of violations. (1) Any person found to have cross-connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of the existing conditions and an appraisal of the time required to complete the work, the manager or his representative shall assign an appropriate amount of time, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross-connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the Ripley Water System shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and *Tennessee Code Annotated*, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping in such a manner that the two (2) systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing. (1994 Code, § 18-308)

18-309. Required devices. (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the

building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

- (a) Impractical to provide an effective air-gap separation;
- (b) The owner/occupant of the premises cannot or is not willing to demonstrate to the Ripley Water System that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;
- (c) The nature and mode of operation within a premise are such that frequent alterations are made to the plumbing;
- (d) There is likelihood that protective measures may be subverted, altered or disconnected;
- (e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required;
- (f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems and swimming pools with no permanent plumbing installed) approved by the Tennessee Department of Environment and Conservation and the Ripley Water System, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the Ripley Water System prior to installation and shall comply with the criteria set forth in this chapter. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Premises requiring reduced pressure principle assemblies or air gap separation. (a) High risk high hazards. Establishments which pose significant risk of contamination or may create conditions which pose an extreme hazard of immediate concern (high risk high hazards). The cross-connection control inspector shall require immediate or a short amount of time (fourteen (14) days maximum), depending on conditions, for corrective action to be taken. In such cases, if corrections have not been made within the time limits set forth, water service will be discontinued.

High risk high hazards require a reduced pressure principle (or detector) assembly. The following list is establishments deemed high risk high hazard and require a reduced pressure principle assembly:

- (i) High risk high hazards:
 - (A) Mortuaries, morgues, autopsy facilities;
 - (B) Hospitals, medical buildings, animal hospitals and control centers, doctor and dental offices;
 - (C) Sewage treatment facilities, water treatment, sewage and water treatment pump stations;
 - (D) Premises with auxiliary water supplies or industrial piping systems;

- (E) Chemical plants (manufacturing, processing, compounding, or treatment);
- (F) Laboratories (industrial, commercial, medical research, school);
- (G) Packing and rendering houses;
- (H) Manufacturing plants;
- (I) Food and beverage processing plants;
- (J) Automated car wash facilities;
- (K) Extermination companies;
- (L) Airports, railroads, bus terminals, piers, boat docks;
- (M) Bulk distributors and users of pesticides, herbicides, liquid fertilizer, etc.;
- (N) Metal plating, pickling, and anodizing operations;
- (O) Greenhouses and nurseries;
- (P) Commercial laundries and dry cleaners;
- (Q) Film laboratories;
- (R) Petroleum processes and storage plants;
- (S) Restricted establishments;
- (T) Schools and educational facilities;
- (U) Animal feedlots, chicken houses, and CAFOs;
- (V) Taxidermy facilities;
- (W) Establishments which handle, process, or have extremely toxic or large amounts of toxic chemicals or use water of unknown or unsafe quality extensively.

(ii) High hazard. In cases where there is less risk of contamination, or less likelihood of cross-connections contaminating the system, a time period of ninety (90) days maximum will be allowed for corrections. High hazard is a cross-connection or potential cross-connection involving any substance that could, if introduced in the public water supply, cause death, illness, and spread disease. (See Appendix A of manual.)

(4) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by Ripley Water System as needing protection.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly, except:

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten feet (10') horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(d) Swimming pools with no permanent plumbing and only filled with hoses will require a hose bibb vacuum breaker be installed on the faucet used for filling.

(5) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(6) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this chapter, by a person approved by the Ripley Water System who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device (except hose bibb vacuum breakers). All fittings shall be of brass construction, unless otherwise approved by the Ripley Water System, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either:

- (i) The floor;
- (ii) The top of opening(s) in the enclosure; or
- (iii) Maximum flood level, whichever is higher. Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in non-removable enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/back-siphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate material to protect the device from vandalism and freezing and shall be approved by the Ripley Water System. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two inches (2"), the enclosure shall be completely removable. Access for backflow prevention devices two and one-half inches (2-1/2") and larger shall be provided through a minimum of two (2) access panels. The access panels shall be of the

same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of forty degrees Fahrenheit (+40°F) with an outside temperature of negative thirty degrees Fahrenheit (-30°F) and a wind velocity of fifteen (15) miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one (1) device has been installed and the continuance of service is critical, the private contractor shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the Ripley Water System may require the installation of a duplicate device.

(p) The Ripley Water System shall require the occupant of the premises to keep any backflow prevention devices working properly, and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the Ripley Water System. Expense of such repairs shall be borne by the owner or occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective shall constitute a violation of this chapter and shall be grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the Ripley Water System.

(7) Testing of devices. Devices shall be tested at least annually by a private contractor possessing a valid certification from the Tennessee Department of Environment and Conservation, Division of Water Supply for the testing of such devices. A copy of this report will be supplied to the Ripley Water System to be put on file. The test must pass and the customer will be responsible for all costs of testing and or retesting. Water service shall not be disrupted to test a device without the knowledge of the occupant of the premises. (1994 Code, § 18-309)

18-310. Non-potable supplies. The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this chapter. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

WATER UNSAFE
FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color-coding of pipelines, in accordance with Occupational Safety and Health Act (OSHA) guidelines, shall be required in locations where in the judgment of the Ripley Water System, such coding is necessary to identify and protect the potable water supply. (1994 Code, § 18-310)

18-311. Statement required. Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the Ripley Water System a statement of the nonexistence of unapproved or unauthorized cross-connections, auxiliary intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross-connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises. (1994 Code, § 18-311)

18-312. Penalty; discontinuance of water supply. (1) Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross-connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross-connection, auxiliary intake, bypass or interconnection has been eliminated. (1994 Code, § 18-312)

18-313. Provision applicable. The requirements contained in this chapter shall apply to all premises served by the Ripley Water System and are hereby made part of the conditions required to be met for the Ripley Water System to provide water services to any premises. The provisions of this chapter

shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the chapter is entitled to a due process hearing upon timely request. (1994 Code, § 18-313)

CHAPTER 4

WATER AND SEWER SYSTEM ADMINISTRATION

SECTION

18-401. Rules and regulations.

18-402. Utility rates and charges.

18-401. Rules and regulations. The administrative rules and regulations of the City of Ripley Gas, Water and Wastewater Plants are hereby adopted as the rules and regulations of the departments of water and sewer. (1994 Code, § 18-401, modified)

18-402. Utility rates and charges. The customers of the water and sewer departments shall pay for the services of such departments in accordance with such rate schedules as the board of mayor and aldermen may from time to time prescribe. (1994 Code, § 18-402)

CHAPTER 5

DROUGHT MANAGEMENT

SECTION

- 18-501. Authority and status to plan.
- 18-502. System characteristics and risks.
- 18-503. Purpose of the drought management plan.
- 18-504. Drought management plan within the context of an EOP.
- 18-505. The planning committee.
- 18-506. Goals--objectives and priorities.
- 18-507. General water uses in order of priority.
- 18-508. Interconnections, mutual aid agreements and backup sources.
- 18-509. Ordinances, policies and legal requirements.
- 18-510. Well static water levels.
- 18-511. Phased management.
- 18-512. Monitor supply and demand.
- 18-513. Management team.
- 18-514. Review, evaluation and updating the management plan.

18-501. Authority and status to plan. Ripley, Tennessee is a municipal corporation chartered and organized under the laws of the State of Tennessee. The City of Ripley owns and operates a water treatment plant and distribution system serving the citizens of Ripley and the surrounding area. The Board of Mayor and Aldermen of the City of Ripley has the authority to implement a drought management plan. The chief water treatment plant operator has been given the responsibility to complete the plan. (1994 Code, § 18-601)

18-502. System characteristics and risks. The Ripley Water System has approximately three thousand five hundred (3,500) water connections. Using the household factor of two and one-half (2.5) persons per household for Lauderdale County, this is equivalent to approximately eight thousand seven hundred fifty (8,750) persons. The usage is categorized as follows:

Water Use <u>Category</u>	Use in Gallons <u>(Avg)</u>	Percent of Total <u>Usage</u>	Peak <u>Water Use</u>	Percent of <u>Total Usage</u>	Increase in <u>Gallons</u>	Percent Increase (Peak <u>Over Avg</u>)
Residential	12,509,800	33.58%	14,603,900	34.85%	2,094,100	16.74%
Commercial	12,651,208	33.96%	14,544,000	34.71%	1,892,792	14.96%
Industrial	4,429,092	11.89%	5,096,500	12.16%	667,408	15.07%

Water Use <u>Category</u>	Use in Gallons <u>(Avg)</u>	Percent of Total Usage	Peak <u>Water Use</u>	Percent of <u>Total Usage</u>	Increase in <u>Gallons</u>	Percent Increase (Peak <u>Over Avg)</u>
Non metered	7,659,900	20.56%	7,659,900	18.28%	0	0.00%
Total	37,250,000	100.00%	41 ,904,300	100.00%	4,654,300	12.49%

The Ripley Water Treatment Plant is a conventional groundwater plant with a design capacity of approximately three million (3,000,000) gallons per day. Average usage for the system is approximately 1.275 million gallons per day. The maximum daily pumpage in recent years, which occurred in September, 2013, was 2.038 million gallons. The treatment plant uses the three (3) wells as its raw water source. The distribution system contains four (4) water storage tanks and two (2) underground storage tanks with a combined capacity of 2.7 million gallons. (1994 Code, § 18-602)

18-503. Purpose of the drought management plan. Typically drought has not affected the water source in past years. The purpose of this plan is to reduce water demand in the event of a drought where existing water supplies are inadequate to meet current demand for potable water. The significance of taking into account water use on average and during peak water demand (though it may not reflect an extreme or exceptional drought) is that system officials can identify water uses that have the potential to be reduced more easily. The point here is to identify potential discretionary or non-essential water uses. It is evident from the data above that water use by residential users typically increases 16.74% over average water use. The 14.96% increase in commercial use indicates that this area may not be easily reduced.

Because water use data reflects a typical peak summer water use but not necessarily a moderate, severe or extreme drought, additional water use could be expected by residential customers on the system to water cattle and other livestock. Residential customers usually rely on ponds and small streams which are likely to be depleted in a severe drought.

During the droughts of 2007 and 2008, the water treatment plant was able to meet customer demand with no restrictions implemented. Static water levels in our wells remained at normal levels. Presently there are two (2) connections with neighboring water systems. An emergency connection with Henning Water System and a live connection with Lauderdale County Water; however, since their source is also groundwater, a drought that affects Ripley Water System would likely affect them. (1994 Code, § 18-603)

18-504. Drought management plan within the context of an EOP. Development of the city's drought management plan and EOP were assigned to the chief water plant operator. He organized a team of individuals, including

employees and local officials, to help organize and frame the plan. Ripley EOP addresses line breaks, storms, earthquakes, hazardous material spills and civil disturbances. The EOP is not available for public scrutiny. The drought management plan focuses attention on managing supplies and demand during a declared drought. (1994 Code, § 18-604)

18-505. The planning committee. The Ripley drought management plan is a separate component of the Emergency Operation Plan (EOP). It was developed by water department staff of the city but included a focus group in its development and review. Unlike the EOP, to which the drought plan is an "annex," the drought plan includes a standby rate structure, restricts some water uses and in some cases bans other water uses at times. The drought management plan was adopted by the board of mayor and aldermen. The final adoption process was the normal process used by board of mayor and aldermen to adopt ordinances allowing for public comment. The drought committee met on May 16, 2016. (1994 Code, § 18-605)

18-506. Goals--objectives and priorities. The initial goal of the drought management plan was to provide water to all priority uses as established by the water system under worsening drought conditions (three (3) levels). The water uses and levels of water availability take into account the maintenance of public health and safety, sustaining economic activity, preserving critical environmental resources and life activities. (1994 Code, § 18-606)

18-507. General water uses in order of priority. (1) Hospital and medical facilities;

- (2) Nursing homes and elderly care facilities;
- (3) Human consumption (drinking water, domestic cooking, bathing, toilet use);
- (4) Fire protection (structural facilities, and hazardous situations);
- (5) Agricultural irrigation;
- (6) Pets (animal hospitals, kennels) and livestock;
- (7) Environment (erosion, aquatic habitat);
- (8) Commercial uses (restaurant, laundry, office, retail);
- (9) Industry and manufacturing (sanitation, process, cooling);
- (10) Recreation (pools, athletic fields);
- (11) Landscape (shrubbery) watering (home and commercial); and
- (12) Lawn watering, vehicle washing (home and commercial).

(1994 Code, § 18-607)

18-508. Interconnections, mutual aid agreements and backup sources. As a result of customers with livestock on the system with potentially inadequate streams, the plan calls for the use of fire department tankers to haul

water from area streams (having available water) to assist farmers with livestock. A portion of the additional funds needed to support this activity would come from revenues generated by standby rates with the remaining funds from fees for services from farmers. (1994 Code, § 18-608)

18-509. Ordinances, policies and legal requirements. The city's drought management plan, rules, ordinances, and policies are available for review. Copies can be examined at the City of Ripley, City Hall. (1994 Code, § 18-609)

18-510. Well static water levels. During periods of drought or impending drought, operators at the Ripley Water Treatment Plant will monitor the static water levels of system wells. U.S. drought monitor (<https://www.drought.gov/gdm/current-conditions>) will be monitored to determine severity of drought. In the event that the static water levels begin to approach preset trigger points, the Tennessee Division of Water Resources will be contacted to discuss possible actions. (1994 Code, § 18-610)

18-511. Phased management. The drought response plan is broken into four (4) phases: drought alert, voluntary water reductions, mandatory water restrictions and emergency water management. The drought management phases and sets of trigger points along with their associated goals are described below. Failure to achieve a management phase's goal within a reasonable time shall call for the next phase to be implemented.

(1) **Drought alert.** In the drought alert phase, no reduction in water use demand is planned. The Ripley water system will focus on monitoring conditions, prepare for the possible implementation of "voluntary reductions," and call its drought task force group together to review the plan and next-step actions.

(2) **Voluntary water reductions.** Under "voluntary reductions" Ripley has established a water use reduction goal of ten percent (10%). This figure corresponds to approximately three hundred thousand (300,000) gallons per day water use judging by peak usage. Among the trigger points for implementing this phase would be a drop in static water levels of twenty percent (20%) or an increase in the usage to two million four hundred thousand (2,400,000) gpd for five (5) consecutive days. The public appeal would consist of news releases to the media (weekly newspaper, local radio and regional television stations). Customers will be encouraged to use efficient water practices, e.g., watering lawns between sunset and sunrise, along with the more careful watering of shrubs and other landscape plantings.

(3) **Mandatory water restrictions.** The goal of activating a "mandatory water restrictions" phase would be to reduce water demand by customers by fifteen percent (15%) (from estimated peak demand). This would amount to a

reduction of approximately four hundred fifty thousand (450,000) gpd. Vehicle washing will be restricted. Restrictions to car/vehicle washing will apply to commercial car washes that do not re-cycle water and to the domestic washing of cars, etc. Lawn and landscape watering will be restricted. To assist in reducing usage, the water system will reduce the amount of flushing where possible. Among the trigger points for implementing this phase would be a drop in static water levels of forty percent (40%) or an increase in the usage to two million five hundred fifty thousand (2,550,000) gpd for five (5) consecutive days. Restrictions will be provided to the public through the media and posted in public buildings such as libraries, city hall, court house, banks and grocery stores. A fifteen dollar (\$15.00) surcharge will be assessed to all customers using over four thousand (4,000) gallons per month. System personnel will be utilized to monitor compliance with restrictions. Customers will also be requested to report violators of the restrictions.

The following will be used to enforce restrictions:

- (a) First offense - A written warning will be issued;
- (b) Second offense - A fifty dollar (\$50.00) fine; and
- (c) Third offense - Customer's water service will be discontinued for a minimum of five (5) days. A reconnection fee will be required to have service restored.

(4) Emergency water management. The "emergency water management" phase of the drought plan would be triggered by severe water pressure or other hydraulic issues, the static water level drops fifty percent (50%) or more or the daily usage reaches three million (3,000,000) gpd for five (5) consecutive days. The purpose of this phase would be to reduce water use to twenty five percent (25%) of the peak demand. This would be a reduction of approximately seven hundred fifty thousand (750,000) gpd. The media will be used to strongly encourage all customers to curtail any nonessential usage. A twenty five dollar (\$25.00) surcharge will be assessed to all customers using over four thousand (4,000) gallons per month. System personnel will be utilized to monitor compliance with restrictions. Customers will also be requested to report violators of the restrictions.

The following will be used to enforce restrictions:

- (a) First offense - A written warning will be issued;
- (b) Second offense - A fifty dollar (\$50.00) fine; and
- (c) Third offense - Customer's water service will be discontinued for a minimum of fifteen (15) days. A reconnection fee will be required to have service restored. (1994 Code, § 18-611)

18-512. Monitor supply and demand. Ripley established three (3) drought management phases in addition to a "drought alert" phase. All four (4) phases are described below. In addition, numerous trigger points were identified signaling the beginning of a phase. (1994 Code, § 18-612)

18-513. Management team. Ripley designated the chief water treatment plant operator to be the drought plan implementation manager. He is ultimately in charge of managing the water system. In addition, the mayor of the city, the chief of the fire department and distribution supervisor make up the drought management group responsible for overseeing the implementation of the plan. They advise and assist the chief operator in gathering information, assessing the situation and recommending/advising/approving the chief operator's actions. The task group is activated and will meet as necessary once a "drought alert" has been initiated. A "drought alert" corresponds to the U.S. drought monitor's categorization of the water system's service area as being characterized as under "severe" drought conditions. The task group monitors water system conditions, including water demand, water supply, forecasted conditions, hydraulic conditions, water quality issues, impacted communities, public notification, plan modifications, staffing, trigger points and other issues related to the implementation of the plan. The task group and chief operator must also maintain records of their actions, system conditions at the time of management actions taken, and their effects. Finally, the drought management group and plan implementation manager must also determine and announce the step-down and/or deactivation of the plan. (1994 Code, § 18-613)

18-514. Review, evaluation and updating the management plan. The drought management plan was adopted on September 6, 2016 by the City of Ripley Board of Mayor and Aldermen. The drought manager will review the plan within six (6) months after any phase of the plan has been implemented and/or every five (5) years. Refinements to the drought management plan will be made as necessary. The drought manager is responsible for making the review and presenting that review before the council. (1994 Code, § 18-614)

CHAPTER 6

GAS, WATER AND WASTEWATER BOARD

SECTION

18-601. Gas, water and wastewater board established.

18-602. Members of the board.

18-603. Meeting and organization of the board.

18-604. Appointment of superintendent of utilities.

18-605. Utility rates and charges.

18-601. Gas, water and wastewater board established. A gas, water and wastewater board is hereby constituted and established for the purpose of taking and having supervision and control of the improvement, operation and maintenance of the City of Ripley's gas, water and wastewater plants. Such board or committee shall be the supervisory body of the said plants and shall have all the powers and duties which are, or shall be, conferred upon it by the laws of the State of Tennessee and the charter, ordinances and resolutions of the City of Ripley, Tennessee. The authority of such board is subject to the city's ownership interest. (1994 Code, § 2-201, modified)

18-602. Members of the board. (1) The board shall consist of five (5) members with fixed, staggered terms, one (1) of whom shall be a member of Board of Mayor and Aldermen of Ripley.

(2) No one shall be eligible for membership on the board unless he or she:

(a) Owns property in the corporate limits of the City of Ripley, Tennessee; and

(b) Has been a resident in said city for not less than one (1) year preceding the date of their appointment.

(3) The members of the board shall be appointed by the mayor and approved by the aldermen of Ripley.

(4) The initial board members shall be appointed by majority vote as directed above, the original appointees to serve from the date of appointment for one (1), two (2), three (3), and four (4) years, respectively, from the next succeeding July 1. Each successor to a member of the board shall be appointed for a term of five (5) years in the same manner, at the next regular meeting of the board of mayor and aldermen in June next preceding the expiration of the term of office of the vacating member. Appointments to complete an unexpired term of office, vacant for any cause, shall be made in the same manner as the original appointments. The alderman appointed to the board shall serve until the expiration of their term as alderman. To assist in the identification and selection of qualified candidates, the board shall solicit applications from the department's customers and others eligible under subsection (2) who may be

interested in being nominated to fill an upcoming vacancy on the board. The board may submit the names of up to three (3) qualified candidates to the board of mayor and aldermen for consideration in the nomination and confirmation of new members of the board. Any such nominee shall be qualified to serve on the utility board if appointed but the board of mayor and aldermen shall not be limited to consideration of the existing board.

(5) The term of office of the member elected from the board of aldermen shall in no event extend beyond their term of office in such governing body.

(6) Each member of the board shall qualify by taking the oath of office as required to be taken by members of the Board of Mayor and Aldermen of the City of Ripley and each member shall serve without bond.

(7) The members of the board shall serve without compensation but shall be allowed necessary traveling and other expenses while engaged in the business of the board, including an allowance not to exceed one hundred and twenty-five dollars (\$125.00) per month for attendance at meetings. Such expenses shall constitute a cost of operation and maintenance of the departments receiving administration.

(8) Any member of the board may be removed from office for cause, or the entire board may be abolished and discontinued, by vote of two thirds (2/3) of the members of the board of mayor and aldermen, after a public hearing, not less than ten (10) days after notice publishes in a newspaper of general circulation in the City of Ripley, Tennessee. (1994 Code, § 2-202, modified)

18-603. Meeting and organization of the board. (1) The regular monthly meeting date of the board shall be at at such time and place as a majority of the gas, water and wastewater board may agree upon.

(2) At the first meeting of said board, held for the purpose of the members taking the oath of office, the members shall elect a chairman who will serve as chairman until the expiration of his or her term of office, adopt by-laws, and conduct any other business which may come before the board.

(3) A chairman shall be elected from the members of the board, at the board's initial meeting, as well as when the chairman's term expires or when a vacancy occurs.

(4) A majority of the board shall constitute a quorum, and the board shall act by vote of a majority present at any meeting attended by a quorum and vacancies in the board shall not affect its power and authority so long as a quorum remains.

(5) The secretary may be elected from the board. The accountant, the superintendent, the chairman of the board shall be bonded in such amounts as the board of mayor and aldermen deems necessary.

(6) The minutes of the board, its by-laws, and rules and regulations shall be kept in the minute book which shall remain in the custody of the secretary or in the offices of the gas, water and wastewater department. It shall,

at all times, be subject to inspection by any board member or any member of the board of mayor and aldermen, or by any citizen during normal business hours.

(7) The board may from time to time adopt and/or revise such by-laws, policies, and regulations of the board, after ten (10) days' notice to said board and to the board of mayor and aldermen.

(8) Any three (3) members of the board can request the chairman to call a meeting of said board by giving written notice to superintendent of the date and hour of said called meeting, at least three (3) days prior to said meeting, and said superintendent will so notify all the board members of said call meeting. The chairman of said board can call a meeting as business demands.

(9) The board shall have all rights, powers and duties conferred upon it by the city charter, other city ordinances, as well as the general statutes of the State of Tennessee. (1994 Code, § 2-203, modified)

18-604. Appointment of superintendent of utilities. (1) The board of mayor and aldermen shall appoint a superintendent for the gas, water and wastewater department, who shall be qualified by training and experience for the general supervision of the improvement and operation of the department's systems.

(2) The superintendent's employment, salary, and other compensation shall be governed by the city's charter.

(3) The superintendent shall have charge of all actual construction and immediate management and operation of said systems, and the enforcement of execution of all rules, regulations, programs, plans and decisions made and adopted by the board. The city's charter shall govern the employment, salary, and other compensation of other departmental employees. The appointment of technical consultants, advisers and legal assistants shall be made subject to approval of the gas, water and wastewater board.

(4) The superintendent shall let all contracts subject to the approval of the board of mayor and aldermen.

(5) The superintendent shall make and keep full and proper books and records subject to the supervision and direction of the gas, water and wastewater board and the board of mayor and aldermen.

(6) The superintendent shall have such other rights, powers and duties which may be conferred upon said superintendent by the board. (1994 Code, § 2-204, modified)

18-605. Utility rates and charges. The customers of the gas, water and wastewater department shall pay for the services of such department in accordance with such rate schedules as the board and/or the board of mayor and aldermen may from time to time prescribe. (1994 Code, § 2-205, modified)

TITLE 19**ELECTRICITY AND GAS**¹**CHAPTER****1. ELECTRICITY.****CHAPTER 1****ELECTRICITY****SECTION**

- 19-101. Ripley power and light board to supervise and control.
- 19-102. Application for service.
- 19-103. Deposit.
- 19-104. Point of delivery.
- 19-105. Customer's wiring--standards.
- 19-106. Inspections.
- 19-107. Underground service lines.
- 19-108. Customer's responsibility for city's property.
- 19-109. Right of access.
- 19-110. Billing.
- 19-111. Discontinuance of service by board.
- 19-112. Reconnection charge.
- 19-113. Termination of contract by customer.
- 19-114. Service charges for temporary service.
- 19-115. Interruption of service.
- 19-116. Voltage fluctuations caused by customer.
- 19-117. Additional load.
- 19-118. Standby and resale service.
- 19-119. Notice of trouble.
- 19-120. Non-standard service.
- 19-121. Meter tests.
- 19-122. Extensions and additions to street lighting systems.
- 19-123. Billing adjusted to standard periods.
- 19-124. Athletic field lighting.
- 19-125. Scope.
- 19-126. Revisions.
- 19-127. Conflict.

¹Municipal code reference

Gas, water and wastewater board: title 18, chapter 6.

19-101. Ripley power and light board to supervise and control.

The general supervision and control of the improvement, operation, and maintenance of the electric plant shall be in the charge of the Ripley power and light board set up by resolution dated December 6, 1958, pursuant to the Municipal Electric Plant Law of 1935 except as modified by section 6 of the city charter. (1994 Code, § 19-101, modified)

19-102. Application for service. Each prospective customer desiring electric service may be required to sign the board's standard form of application for service or contract before service is supplied by the board. (1994 Code, § 19-102)

19-103. Deposit. A deposit or suitable guarantee approximately equal to twice the average monthly bill may be required of any customer before electric service is supplied. The board may at its option return the deposit to the customer after one (1) year. Upon termination of service, the deposit may be applied by the board against unpaid bills of the customer, and if any balance remains after such application is made, such balance shall be refunded to the customer. (1994 Code, § 19-103)

19-104. Point of delivery. The point of delivery is the point, as designated by the board on the customer's premises, where current is to be delivered to the building or premises. All wiring and equipment beyond this point of delivery shall be provided and maintained by the customer at no expense to the city. (1994 Code, § 19-104)

19-105. Customer's wiring--standards. All wiring of the customer must conform to the city's requirements and accepted modern standards, as exemplified by the requirements of the electrical code adopted by the city. (1994 Code, § 19-105, modified)

19-106. Inspections. The board shall have the right, but shall not be obligated, to inspect any installation before electricity is introduced or at any later time, and reserves the right to reject any wiring or appliances not in accordance with the city's standards; but such inspection or failure to inspect or reject shall not render the board liable or responsible for any loss or damage resulting from defects in the installation, wiring, or appliances, or from violation of the city's rules, or from accidents which may occur upon the customer's premises. (1994 Code, § 19-106)

19-107. Underground service lines. Customers desiring underground service lines from the board's overhead system must bear the excess cost incident thereto. Specifications and terms for such construction will be furnished by the board on request. (1994 Code, § 19-107)

19-108. Customer's responsibility for city's property. All meters, service connections, and other equipment furnished by the board shall be, and remain, the property of the city. The customer shall provide a space for and exercise proper care to protect the property of the city on its premises, and, in the event of loss or damage to the city's property arising from the neglect of the customer to care for same, the cost of the necessary repairs or replacements shall be paid by the customer. (1994 Code, § 19-108)

19-109. Right of access. The board's identified employees shall have access to the customer's premises at all reasonable times for the purpose of reading meters, and testing, repairing, removing, or exchanging any or all equipment belonging to the city. (1994 Code, § 19-109)

19-110. Billing. Bills will be rendered monthly and shall be paid within ten (10) days from the date of the bill at the office of the board. Failure to receive a bill will not release the customer from payment obligation. Should bills not be paid as above, the board may at any time thereafter, upon five (5) days' written notice to the customer, discontinue service. Bills paid on or before the final date of payment shall be payable at the net rates, but thereafter the gross rates shall apply, as provided in the schedule of rates and charges in the city's contract with TVA. Should the final date for payment of the bill at the net rates fall on a Sunday or holiday, the business day next following the final date will be held as a day of grace for delivery of payment. Net rate remittances received by mail after the time limit for payment of said net rates will be accepted by the board if the incoming envelope bears United States Post Office date stamp of the final date for payment of the net amount or any date prior thereto. Any customer aggrieved by written notification of the intent to discontinue services may, within forty-eight (48) hours, make a written request to the superintendent for review of their dispute with the Ripley Power & Light Board, which is authorized to review disputed bills and to correct any errors. During the pendency of this review, no termination of the aggrieved customer's service shall be made. (1994 Code, § 19-110, modified)

19-111. Discontinuance of service by board. The board may refuse to connect or may discontinue service for the violation of any of the applicable rules and regulations, or for violation of any of the provisions of the schedule of rates and charges in the city's contract with TVA, or of the application of the customer or the contract with the customer. The board may discontinue service to the customer for the theft of current or the appearance of current theft devices on the premises of the customer. The discontinuance of service by the board for any causes as stated in this rule does not release the customer from his obligation to the city for the payment of minimum bills as specified in the application of the customer or the contract with the customer. Any customer aggrieved by written notification of the intent to discontinue services may,

within forty-eight (48) hours, make a written request to the superintendent for review of their dispute with the Ripley Power & Light Board, which is authorized to review disputed bills and to correct any errors. During the pendency of this review, no termination of the aggrieved customer's service shall be made. (1994 Code, § 19-111, modified)

19-112. Reconnection charge. Whenever service has been discontinued by the board, as provided above, or a trip is made for the purpose of discontinuing service, a charge of not less than one dollar (\$1.00) may be collected by the board before service is restored. (1994 Code, § 19-112)

19-113. Termination of contract by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days' written notice to that effect, unless the contract specifies otherwise. Notice to discontinue service prior to expiration of the contract term will not relieve the customer from any minimum or guaranteed payment under any contract or rate. (1994 Code, § 19-113)

19-114. Service charges for temporary service. Customers requiring electric service on a temporary basis may be required by the board to pay all costs for connection and disconnection incidental to the supplying and removing of service. This rule applies to circuses, carnivals, fairs, temporary construction, and the like. (1994 Code, § 19-114)

19-115. Interruption of service. The board will use reasonable diligence in supplying current, but shall not be liable for a breach of contract in the event of, or for loss, injury, or damage to persons or property resulting from interruptions in service, excessive or inadequate voltage, single-phasing, or otherwise unsatisfactory service, whether or not caused by negligence. (1994 Code, § 19-115)

19-116. Voltage fluctuations caused by customer. Electric service must not be used in such a manner as to cause unusual fluctuations or disturbances to the city's system. The board may require the customer, at his own expense, to install suitable apparatus which will reasonably limit such fluctuations. (1994 Code, § 19-116)

19-117. Additional load. The service connection, transformers, meters, and equipment supplied by the board for each customer have a definite capacity, and no addition to the equipment or load connected thereto will be allowed except by consent of the board. Failure to give notice of additions or changes in load, and to obtain the board's consent for same, shall render the customer liable for any damage to any of the board's lines or equipment caused by the additional or changed installation. (1994 Code, § 19-117)

19-118. Standby and resale service. All purchased electric service (other than emergency or standby service) used on the premises of the customer shall be supplied exclusively by the city, and the customer shall not, directly or indirectly, sell, sublet, assign, or otherwise dispose of the electric service or any part thereof. (1994 Code, § 19-118)

19-119. Notice of trouble. The customer shall notify the board immediately should the service be unsatisfactory for any reason, or should there be any defects, trouble, or accidents affecting the supply of electricity. Such notices, if verbal, should be confirmed in writing. (1994 Code, § 19-119)

19-120. Non-standard service. The customer shall pay the cost of any special installation necessary to meet his peculiar requirements for service at other than standard voltages, or for the supply of closer voltage regulation than required by standard practice. (1994 Code, § 19-120)

19-121. Meter tests. The board will, at its own expense, make periodical tests and inspections of its meters in order to maintain a high standard of accuracy. The board will make additional tests or inspections of its meters at the request of the customer. If tests made at the customer's request show that the meter is accurate within two percent (2%), slow or fast, no adjustment will be made in the customer's bill, and the testing charge of one dollar (\$1.00) per meter will be paid by the customer. In case the test shows the meter to be in excess of two percent (2%) fast or slow, an adjustment shall be made in the customer's bill over a period of not over thirty (30) days prior to the date of such test, and the cost of making the test shall be borne by the board. (1994 Code, § 19-121)

19-122. Extensions and additions to street lighting systems. The board shall, at the request of a customer for street lighting service, provide additions and extensions to the street lighting system, provided that if, in any year ending June 30, the customer requests additions or extensions with a total cost in excess of five percent (5%) of the investment in street lighting property and equipment, the customer may be required to finance such excess cost. (1994 Code, § 19-122)

19-123. Billing adjusted to standard periods. The demand charges and the blocks in the energy charges set forth in the rate schedules in the city's contract with TVA are based on billing periods of approximately one (1) month. In the case of the first billing of new accounts (temporary service, cotton gins, and other seasonal customers excepted) and final billings of all accounts (temporary service excepted) where the period covered by the billing involves fractions of a month, the demand charges and the blocks of the energy charge

will be adjusted to a basis proportionate with the period of time during which service is extended. (1994 Code, § 19-123)

19-124. Athletic field lighting. Athletic field lighting installations not owned or maintained by the city may be served on an off-peak basis in accordance with the provisions of the street lighting rate. For athletic field lighting, the investment charge provided for in the street lighting rate will be based on the city's investment in furnishing and installing the equipment devoted to supplying the athletic field lighting service. Energy will be billed in accordance with the street lighting schedule and each installation will be considered a separate customer for billing purposes. The customer's bills rendered in accordance with this provision shall be subject to any surcharge and amortization charge applied by the board. The off-peak period shall be determined by the board, but in no case shall it commence earlier than 7:00 p.m. The customer may be permitted to use up to ten percent (10%) (not to exceed ten (10) kilowatts) of the total installed lighting capacity prior to the commencement of the off-peak period, such use to be considered off-peak for billing purposes. In the event the customer fails to restrict service in accordance with these requirements, he shall be billed under the appropriate lighting and power rate. (1994 Code, § 19-124)

19-125. Scope. Sections 19-102 to 19-127 are a part of all contracts for receiving electric service from the city, and applies to all service received from the city, whether the service is based upon contract, agreement, signed application, or otherwise. A copy of these provisions, together with a copy of the city's schedule of rates and charges as contained in the city's contract with TVA shall be kept open to inspection at the offices of the board. (1994 Code, § 19-125)

19-126. Revisions. These rules and regulations may be revised, amended, supplemented, or otherwise changed from time to time, without notice. Such changes, when effective, shall have the same force as the present rules and regulations. (1994 Code, § 19-126)

19-127. Conflict. In case of conflict between any provision of any rate schedule in the city's contract with TVA and the rules and regulations as set forth herein, the rate schedule shall apply. (1994 Code, § 19-127)

TITLE 20

MISCELLANEOUS

CHAPTER

1. INFLATABLES.

CHAPTER 1

INFLATABLES

SECTION

20-101. Intended use and owner's licensure to be provided.

20-101. Intended use and owner's licensure to be provided. Any entity utilizing, renting, or leasing city property for an event must disclose the intended use of an inflatable device or structure, and documentation of the inflatable owner's licensure or certification by the state must be provided at the time the property is reserved for use or application is made for a permit.

APPENDIX

- A. PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN FOR THE EMPLOYEES OF THE CITY OF RIPLEY.

APPENDIX A

PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN FOR THE EMPLOYEES OF CITY OF RIPLEY

<u>SECTION</u>	<u>PAGE</u>
I. PURPOSE AND COVERAGE.....	A-2
II. DEFINITIONS	A-3
III. EMPLOYER'S RIGHTS AND DUTIES	A-4
IV. EMPLOYEE'S RIGHTS AND DUTIES	A-5
V. ADMINISTRATION	A-7
VI. STANDARDS AUTHORIZED.....	A-8
VII. VARIANCE PROCEDURE.....	A-8
VIII. RECORDKEEPING AND REPORTING	A-10
IX. EMPLOYEE COMPLAINT PROCEDURE	A-11
X. EDUCATION AND TRAINING	A-12
XI. GENERAL INSPECTION PROCEDURES	A-13
XII. IMMINENT DANGER PROCEDURES.....	A-15
XIII. ABATEMENT ORDERS AND HEARINGS.....	A-16
XIV. PENALTIES	A-17
XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION.....	A-17
XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS.....	A-17
XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED	A-18

APPENDICES

I. WORK LOCATIONS.....	A-19
II. NOTICE TO ALL EMPLOYEES	A-20
III. PROGRAM PLAN BUDGET.....	A-22
IV. ACCIDENT REPORTING PROCEDURES	A-23

I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program Plan for the employees of the City of Ripley.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The City of Ripley in electing to update and maintain an effective Occupational Safety and Health Program Plan for its employees,

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Occupational Safety and Health Program Plan.
- h. Provide reasonable opportunity for and encourage 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 which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this Program Plan, the following definitions apply:

- a. "COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. "EMPLOYER" means the City of Ripley and includes each administrative department, board, commission, division, or other agency of the City of Ripley.
- c. "SAFETY DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH" or "SAFETY DIRECTOR" means the person designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of City of Ripley.
- d. "INSPECTOR(S)" means the individual(s) appointed or designated by the Safety Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director of Occupational Safety and Health.
- e. "APPOINTING AUTHORITY" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- f. "EMPLOYEE" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as 'volunteers' provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "PERSON" means one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.
- h. "STANDARD" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

- i. "IMMINENT DANGER" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. "ESTABLISHMENT" or "WORKSITE" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. "SERIOUS INJURY or HARM" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 - 1. A part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 - 2. A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. "ACT" OR "TOSH Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.
- m. "GOVERNING BODY" means the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this plan applies.
- n. "CHIEF EXECUTIVE OFFICER" means the chief administrative official, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this Program Plan.

IV. EMPLOYEE'S RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the employer a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.

- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Safety Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Safety Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Safety Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Safety Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Safety Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
 1. The Safety Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this Program Plan.
 2. The Safety Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Safety Director.
 3. The Safety Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan.
 4. The Safety Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
 5. The Safety Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Safety Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Safety Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Safety Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. The Safety Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of three or more employees insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.

- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this Occupational Safety and Health Program Plan within their respective areas.
 - 1. The administrative or operational head shall follow the directions of the Safety Director on all issues involving occupational safety and health of employees as set forth in this plan.
 - 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Safety Director within the abatement period.
 - 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 - 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Safety Director along with his findings and/or recommendations in accordance with APPENDIX IV of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

VII. VARIANCE PROCEDURE

The Safety Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Safety Director should definitely believe that a variance is needed

before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first -hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:
 1. The employer
 - i. Is unable to comply with the standard by the effective date because of unavailability of professional or

- technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has an effective Program Plan for coming into compliance with the standard as quickly as possible.
- 2. The employee is engaged in an experimental Program Plan as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
- e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
- f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

Recording and reporting of all occupational accidents, injuries and illnesses shall be in accordance with instructions and on forms provided in the booklet. You can get a copy of the Forms for Recordkeeping from the internet at www.osha.gov; a link to the Recordkeeping forms may be found at this website.

The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix IV to this plan.

Details of how reports of occupational accidents, injuries, and illnesses will reach the record-keeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix IV to this plan. The Rule of the Tennessee Department of Labor and Workforce Development Occupational Safety and Health, OCCUPATIONAL SAFETY AND HEALTH RECORD-KEEPING AND REPORTING, CHAPTER 0800-01 -03, as authorized by Tennessee Code Annotated, Title 50.

The Safety Director shall, in the event that there is a fatality or an accident resulting in the hospitalization of three or more employees, insure that the Commissioner of Labor and Workforce Development receive notification of the occurrence within (8) hours . All work-related

inpatient hospitalizations, amputations, and loss of an eye must be reported to TOSHA within 24 hours. (as replaced by Ord. #518, Dec. 2016)

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Safety Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Safety Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Safety Director will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.
- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related

correspondence with the Safety Director and the Chief Executive Officer or the representative of the governing body.

- f. Copies of all complaint and answers thereto will be filed by the Safety Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Safety Director and/or Compliance Inspector(s):
 - 1. Arrangements will be made for the Safety Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies. A list of Seminars can be obtained.
 - 2. Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All Employees (including Supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

- 1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
- 2. Instruct employees who are required to handle poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, personal hygiene, etc., which may be required.
- 3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure,

and the first aid procedures to be followed in the event of injury or exposure.

4. Instruct employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an Occupational Safety and Health Program Plan that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this ordinance, the Safety Director and/or Compliance Inspector(s), if appointed, is authorized:
 - 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 - 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place or employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.
- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Safety Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Safety Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

- h. The Safety Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Safety Director.
 - 2. Records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Safety Director.
- i. The Safety Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - 1. The Safety Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the allegation.
 - 2. If the alleged imminent danger situation is determined to have merit by the Safety Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 - 3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the Safety Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 - 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Safety Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 - 5. The imminent danger shall be deemed abated if:

- i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
- 6. A written report shall be made by or to the Safety Director describing in detail the imminent danger and its abatement. This report will be maintained by the Safety Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
 - 1. Any refusal to abate an imminent danger situation shall be reported to the Safety Director and Chief Executive Officer immediately.
 - 2. The Safety Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

- a. Whenever, as a result of an inspection or investigation, the Safety Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Safety Director shall:
 - 1. Issue an abatement order to the head of the worksite.
 - 2. Post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.
- b. Abatement orders shall contain the following information:
 - 1. The standard, rule, or regulation which was found to violated.
 - 2. A description of the nature and location of the violation.
 - 3. A description of what is required to abate or correct the violation.
 - 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Safety Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Safety Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Safety Director shall, within three (3) working days,

issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Safety Director pursuant to this plan of operation or the legislation (ordinance, or executive order) enabling this Occupational Safety and Health Program Plan which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this Program Plan or when relevant in any proceeding under this Program Plan. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. DISCRIMINATION INVESTIGATIONS AND SANCTIONS

The Rule of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1972 0800-01-08, as authorized by T.C.A., Title 50. The agency agrees that any employee who believes they have been discriminated against or discharged in violation of Tenn. Code Ann § 50-3-409 can file a complaint with their agency/safety Safety

Director within 30 days, after the alleged discrimination occurred. Also, the agency agrees the employee has a right to file their complaint with the Commissioner of Labor and Workforce Development within the same 30 day period. The Commissioner of Labor and Workforce Development may investigate such complaints, make recommendations, and/or issue a written notification of a violation.

XVII. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment shall not excuse the employer, the employee, or any other person from compliance with the provisions of this Program Plan.
- b. Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the employer, the employee, or any other person from compliance with the law, statute, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

s/Donna Buckner

Signature: Safety Director, Occupational Safety and Health Date

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN- APPENDIX 1

WORK LOCATIONS

TOTAL NUMBER OF EMPLOYEES: 215

Mayor - Craig Fitzhugh

Recorder/Treasurer - Donna Buckner

Safety Director - Donna Buckner

110 S. Washington Street

Ripley, TN 38063

Phone 731-635-4000

Fax 731-653-2692

City Hall - 11 employees

110 S. Washington Street

Ripley, TN 38063

Phone 731- 635-4000

Fax 731-6352692

Parks and Recreation Dept - employees 40

200 Mary Robert Drive

Ripley, TN 38063

Phone 731-635-4645

Fax 731-635-7660

City Court - 3 employees

114 S. Washington Street

Ripley, TN 38063

Phone 731-635-5223

Fax 731-635-8097

Parks and Recreation Dept - employees 9

317 S. Washington Street

Ripley, TN 38063

Phone 731-635-0997

Fax 731-635-0997

Police Dept - employees 38

110 S. Washington Street

Ripley, TN 38063

Phone 731-635-1515

Fax 731-635-8097

City of Ripley Utility Departments
Independent Supervisory BoardsRipley Power and Light Company -
employees 37

Mike Allmand, Superintendent

148 S Main Street

Ripley, TN 38063

Phone 731-635-2323

Fax 731-635-2320

Fire Dept - employees 18

225 Randolph Street

Ripley, TN 38063

Phone 731-635-2284

Fax 731-635-2692

Public Works Dept - employees 27

103 Industrial Drive

Ripley, TN 38063

Phone 731-635-1621

Fax 731-635-4455

Ripley Gas, Water & Wastewater Dept -
employees 32

Scott Nelson, Superintendent

116 Church Street

Ripley, TN 38063

Phone 731-635-1212

Fax 731-635-0892

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN-- APPENDIX II

NOTICE TO ALL EMPLOYEES OF THE CITY OF RIPLEY

The Tennessee Occupational Safety and Health Act of 1972 provides job safety and health protection for Tennessee workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development, this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this Program Plan which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage of any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this Program Plan may file a petition with the Safety Director or Mayor.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this Program Plan, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this Program Plan.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before Safety Director and Mayor for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program Plan for the Employees of City of Ripley is available for inspection by any employee at the Ripley City Hall during regular office hours.

s/Craig Fitzhugh

CRAIG FITZHUGH, MAYOR

4-1-24

Date

OCCUPATIONAL SAFETY AND HEALTH PLAN

**PROGRAM PLAN BUDGET
APPENDIX III**

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that City of Ripley has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program Plan and to comply with standards.

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN APPENDIX IV

ACCIDENT REPORTING PROCEDURES

Employees shall report all accidents, injuries, or illnesses to their supervisor as soon as possible, but not later than two (2) hours after the occurrence. The supervisor will provide the Safety Director and/or recordkeeper with the name of the injured or ill employee and a brief description of the accident or illness by telephone as soon as possible, but not later than four (4) hours, after the accident or injury occurred or the time of the first report of illness. All fatalities or accidents involving the hospitalization of three (3) or more employees shall be reported to the Safety Director and/or recordkeeper immediately, either by telephone or verbally, and will be followed by a written report within four (4) hours after their occurrence. The supervisor will then make a thorough investigation of the accident or illness (with the assistance of the Safety Director or Compliance Inspector, if necessary) and will complete a written report on the accident or illness and forward it to the Safety Director within seventy-two (72) hours after the accident, injury, or first report of illness and will provide one (1) copy of the written report to the recordkeeper.

Since a Workers' Compensation Form 6A or OSHA NO. 301 Form must be completed, all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employer's mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

ORDINANCE NO. 555

AN ORDINANCE ADOPTING AND ENACTING A
COMPREHENSIVE CODIFICATION AND REVISION OF THE
ORDINANCES OF THE CITY OF RIPLEY, TENNESSEE.

WHEREAS some of the ordinances of the City of Ripley, Tennessee, are
obsolete, and

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

WHEREAS the Board of Mayor and Aldermen of the City of Ripley,
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 "Ripley Municipal Code," now,
therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF
THE CITY OF RIPLEY, TENNESSEE,* THAT:

Section 1. Ordinances codified. The ordinances of the City of Ripley,
Tennessee, 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 "Ripley Municipal Code,"
hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general,
continuing, and permanent application or of a penal nature not contained in the
municipal code are hereby repealed from and after the effective date of said
code, except as hereinafter provided in section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for
in section 2 of this ordinance shall not affect: Any offense or act committed or
done, or any penalty or forfeiture incurred, or any contract or right established
or accruing before the effective date of the municipal code; any ordinance or
resolution promising or requiring the payment of money by or to the city or
authorizing the issuance of any bonds or other evidence of said city's
indebtedness; any appropriation ordinance or ordinance providing for the levy
of taxes or any budget ordinance; any contract or obligation assumed by or in

*The charter may provide for a different ordination clause; use whatever
the charter prescribes.

favor of said city; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty." Each day any violation of the municipal code continues shall constitute a separate civil offense

This clause does not limit the city's authority to pursue remedial expenses or to levy remedial fines when enforcing provisions of this code.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The

invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to 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. Construction as to gender references. Masculine pronouns include the feminine. Only masculine pronouns have been used for convenience and readability.

Section 10. 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 11. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading 2-5, 2024.

Passed 2nd reading 4-1, 2024.

Public hearing held on April 1, 2024

A handwritten signature in blue ink, appearing to read "Craig Fitzgibbon", written over a horizontal line.

Mayor

A handwritten signature in blue ink, appearing to read "Donna Buckner", written over a horizontal line.

Recorder

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "R. Jackson", written over a horizontal line.

City Attorney