THE
HARROGATE
MUNICIPAL
CODE

Prepared by the

Municipal Technical Advisory Service

In cooperation with the Tennessee Municipal League

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CITY OF HARROGATE, TENNESSEE

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PREFACE[1]

The Harrogate Municipal Code contains the codification and revision of the ordinances of the City of Harrogate, 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 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.

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[1]Whenever in this municipal code of ordinances masculine pronouns are used, the feminine is included.

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

1. An ordinance shall be considered and adopted on two (2) separate days; any other form of board action shall be considered and adopted in one (1) day. Any form of board action shall be passed by a majority of the members present, if there is a quorum. A quorum is a majority of the members to which the board is entitled. All ayes and nays on all votes on all forms of board action shall be recorded. (6-2-102)

2. Each ordinance, or the caption of each ordinance, shall be published after its final passage in a newspaper of general circulation in the municipality. No ordinance shall take effect until the ordinance or its caption is published. (6-2-101)

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TITLE 1

GENERAL ADMINISTRATION[1]

CHAPTER

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

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[1]Charter references

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

Municipal code references

Building, plumbing, electrical and gas inspectors: title 12.
Fire department: title 7.
Utilities: titles 18 and 19.
Wastewater treatment: title 18.
Zoning: title 14.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN[1]

SECTION

1-101. Time of meetings.
1-102. Tape recording of all board meetings.
1-103. Rules of procedure.

1-101. Time of meetings. The regular meetings of the board of mayor and aldermen (the "board") shall be held at 6:00 P.M. the fourth Monday of each month. Provided, however, that the board may, in its discretion, reschedule any regular meetings by the majority vote of its entire membership. Any such rescheduling shall be accomplished at the regular meeting proceeding the meeting to be rescheduled. (2011 Code, § 1-101)

1-102. Tape recording of all board meetings. All official council meetings shall be recorded, properly identified and filed in the city recorder's office. (2011 Code, § 1-102)

1-103. Rules of procedure. The following is adopted as the rules and procedures for the Board of Mayor and Aldermen of the City of Harrogate (the "board").

(1) Rule 1: General rules of order. The rules of order and parliamentary procedure contained in *Robert's Rules of Order, Newly Revised*, shall govern the transaction of business by and before the board of mayor and

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[1]Charter references

For charter provisions related to the board of mayor and aldermen, see *Tennessee Code Annotated*, title 6, chapter 3. For specific charter provisions related to the board of mayor and aldermen, see the following sections:

City administrator: § 6-4-101.
Compensation: § 6-3-109.
Duties of mayor: § 6-3-106.
Election of the board: § 6-3-101.
Oath: § 6-3-105.
Ordinance procedure
Publication: § 6-2-101.
Readings: § 6-2-102.
Residence requirements: § 6-3-103.
Vacancies in office: § 6-3-107.
Vice-mayor: § 6-3-107.

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.

(2) Rule 2: Order of business. The regular order of business shall be as follows:

(a) Call to order by the mayor.

(b) Invocation.

(c) Pledge of allegiance.

(d) Roll call by the recorder.

(e) Approval of minutes of the previous meeting.

(f) Communications from the mayor.

(g) Reports from committees, members of the board of mayor and aldermen, and other officers.

(h) Old business.

(i) New business.

(j) Comments from citizens; public forum.

(k) Adjournment.

(3) Rule 3: Vice mayor. The board at the first regular scheduled meeting following the regular bi-annual elections of the city shall elect a vice-mayor. The vice-mayor's term shall be for a two (2) year period.

(4) Rule 4: Broadcast television media. Rules for the radio and television broadcasting of meetings of the board shall be as follows: all licensed radio and television stations shall be eligible to broadcast or telecast meetings of the board subject to compliance with the following rules:

(a) Authority to broadcast or telecast shall be obtained by applying in writing to the mayor. No exclusive authority broadcast or telecast shall be granted to any station or stations.

(b) Sufficient equipment shall be provided by the broadcasting or telecasting station so as to ensure that all board members will be heard from their respective seats. Neither personnel or equipment shall interfere with the orderly procedure of the board meetings.

(5) Rule 5: Introduction and reading of ordinance by title and abbreviated reading. The mayor is hereby authorized and permitted at a regular or special meeting of council to introduce and read ordinances and resolutions for the board's consideration by an abbreviated reading or reference to the caption or number of such ordinance or resolution.

(6) Rule 6: Notice of special called meetings. (a) The mayor[1] may call special meetings of the board upon adequate notice to the board and adequate public notice. The notice shall state the matters to be considered and the action of the board shall be limited to those matters submitted.

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[1]Charter reference

Special meetings: § 6-3-106(4).

(b) The city recorder shall post notice and make available to local media the date, hour, purpose, and place of the special meeting at least two (2) days prior to the meeting when possible. (2011 Code, § 1-103)

CHAPTER 2

MAYOR[1]

SECTION
1-201. Duties of mayor.

1-201. Duties of mayor. (1) The mayor:

(a) Shall be the chief executive officer of the municipality and shall preside at meetings of the board;

(b) Shall communicate any information needed, and recommend measures the mayor deems expedient to the board;

(c) (i) Shall make temporary appointments of any officer or department head in case of sickness, absence or other temporary disability; and

(ii) The board may confirm the mayor's appointment or otherwise appoint a person to fill the vacant office unless this duty has been delegated as authorized in this charter.

(d) (i) May call special meetings of the board upon adequate notice to the board and adequate public notice; and

(ii) Shall state the matters to be considered at the special meeting and the action of the board shall be limited to those matters submitted.

(e) Shall countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party;

(f) As a member of the board, may make motions and shall have a vote on all matters coming before the board; and

(g) Shall make appointments to boards and commissions as authorized by law.

(2) Unless otherwise designated by the board, the mayor shall perform the following duties or may designate a department head or department heads to perform any of the following duties:

(a) (i) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board; and

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[1]Charter references
Duties of mayor: § 6-3-106.
Vacancies in office: § 6-3-107.
Vice-mayor: § 6-3-107.

(ii) Nothing in this chapter shall be construed as granting a property interest to employees or department heads in their continued employment.

(b) Act as purchasing agent for the municipality in the purchase of all materials, supplies and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the board;

(c) Prepare and submit the annual budget and capital program to the board for their adoption by ordinance; and

(d) Such other duties as may be designated or required by the board. (2011 Code, § 1-201)

CHAPTER 3

RECORDER[1]

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 shall be insured and/or bonded to cover for loss or theft of money or property including faithful performance in such sum as may be fixed, and as may be acceptable to, the board of mayor and aldermen. (2011 Code, § 1-301)

1-302. To keep minutes, etc. The recorder shall keep the minutes of all meetings of the board of mayor and aldermen and shall preserve the original copy of all ordinances in a separate ordinance book. (2011 Code, § 1-302)

1-303. To perform general administrative duties, etc. The recorder shall perform all administrative duties for the board of mayor and aldermen and for the city which are not assigned by the charter, this code, or the board of mayor and aldermen to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers. (2011 Code, § 1-303)

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[1]Charter references
City recorder: §§ 6-4-201, *et seq.*
Recorder as treasurer: § 6-4-401(c).

CHAPTER 4

CODE OF ETHICS[1]

SECTION

1-401. Applicability.
1-402. Definition of "personal interest."
1-403. Disclosure of personal interest by official with vote.
1-404. Disclosure of personal interest in 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.

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[1]State 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, ch. 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.

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

1-410. Ethics complaints.
1-411. Violations and penalty.

1-401. Applicability. This chapter is the code of ethics for personnel of the City of Harrogate. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the City of Harrogate. The words "city" and "City of Harrogate" include these separate entities. (2011 Code, § 1-401)

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. (2011 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 himself[1] from voting on the measure. (2011 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 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

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

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. (2011 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 city:

(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. (2011 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. (2011 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 city. (2011 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 city.

(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 city. (2011 Code, § 1-408)

1-409. Outside employment. A full-time employee of the city may not accept or continue any outside employment without written authorization from the department head. (2011 Code, § 1-409)

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

(2) (a) Except as otherwise provided in this section, 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 board of mayor and aldermen to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interest in a particular matter.

(c) When a complaint of a violation of any provision of this chapter is lodged against a member of the city's board of mayor and aldermen, the board of mayor and aldermen 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 board of mayor and aldermen 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. (2011 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 board of mayor and aldermen. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (2011 Code, § 1-411)

CHAPTER 5

ELECTIONS

SECTION
1-501. Terms of office; election date.

1-501. Terms of office; election date. The aldermen and mayor are to be elected to four (4) year staggered terms in the November general elections. (2011 Code, § 1-501)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. CITY TREE BOARD.
2. PARKS AND RECREATION ADVISORY BOARD.
3. BOOK STATION COMMITTEE.

CHAPTER 1

CITY TREE BOARD

SECTION

2-101. Definitions.
2-102. Creation and establishment of a city tree board.
2-103. Term of office.
2-104. Compensation.
2-105. Duties and responsibilities.
2-106. Operation.
2-107. Street tree species to be planted.
2-108. Spacing.
2-109. Distance from curbs and sidewalks.
2-110. Distance from street corners and fireplugs.
2-111. Utilities.
2-112. Public tree care.
2-113. Tree topping.
2-114. Pruning, corner clearance.
2-115. Dead or diseased tree removal on private property.
2-116. Removal of stumps.
2-117. Interference with city tree board.
2-118. Arborists license and bond.
2-119. Review by board of mayor and aldermen.
2-120. Violations and penalty.

2-101. Definitions. (1) "Park trees" means trees, shrubs, bushes, and all other woody vegetation in named public parks, and all areas owned by the city, or to which the public has free access as a park, such as a bike, jogging, or walking trail, or small street or civic garden.

(2) "Street trees" means trees, shrubs, bushes, and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the city. (2011 Code, § 2-101)

2-102. Creation and establishment of a city tree board. There is hereby created and established a City Tree Board for the City of Harrogate, Tennessee, which shall consist of up to eight (8) members. Five (5) of the tree board members shall be citizens and residents of the city or county and, if possible, one (1) member being a representative from the Tennessee Division of Forestry. All tree board members and the chairman are approved by the board of mayor and aldermen. (2011 Code, § 2-102)

2-103. Term of office. The terms of the tree board shall be for two (2) years. The chairman shall be appointed by the mayor and board of aldermen. In the event that a vacancy shall occur during the term of any member, his/her successor shall be appointed by the chairman for the unexpired portion of the term. (2011 Code, § 2-103)

2-104. Compensation. Members of the board or related committee shall serve without compensation. (2011 Code, § 2-104)

2-105. Duties and responsibilities. It shall be the responsibility of the board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets, bike trails, and in other public areas. Such plan will be presented annually to the board of mayor and aldermen and upon their acceptance and approval shall constitute the official comprehensive city tree plan for the City of Harrogate, Tennessee. The board, when requested by the board of mayor and aldermen, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work. (2011 Code, § 2-105)

2-106. Operation. The tree board shall elect its own officers from its membership, with the exception of the chairman, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business. (2011 Code, § 2-106)

2-107. Street tree species to be planted. A list of approved trees will be maintained by the tree board. No tree species other than those included on the tree board's list shall be planted as street trees without written permission from the tree board. (2011 Code, § 2-107)

2-108. Spacing. The spacing of street trees will be in accordance with the three (3) species size classes listed in § 2-107 of this chapter, and no trees may be planted closer together than the following:

(1) Small trees, twenty feet (20');
(2) Medium trees, thirty feet (30'); and
(3) Large trees, forty feet (40'). Except in special planting designed or approved by the city engineer or landscape architect. (2011 Code, § 2-108)

2-109. Distance from curbs and sidewalks. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three (3) species size classes listed in § 2-107 of this chapter, and no trees may be planted closer to any curb or sidewalk than the following.
(1) Small trees, two feet (2');
(2) Medium trees, two and one-half feet (2-1/2'); and
(3) Large trees, three feet (3'). (2011 Code, § 2-109)

2-110. Distance from street corner and fireplugs. No street tree shall be planted closer than eighty feet (80') of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than eight feet (8') to a fireplug. (2011 Code, § 2-110)

2-111. Utilities. No street trees other than those species listed as small or medium trees in § 2-107 of this chapter may be planted under or within ten (10) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility. (2011 Code, § 2-111)

2-112. Public tree care. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public ways to promote safety or to preserve or enhance the symmetry and beauty of such public grounds. The city tree board may remove, or cause or order to be removed, any tree or part thereof, which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of said trees is in accordance with §§ 2-107 through 2-111 of this chapter. (2011 Code, § 2-112)

2-113. Tree topping. It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches (3") in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be

exempted from this chapter at the determination of the city tree board. (2011 Code, § 2-113)

2-114. Pruning, corner clearance. Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of fourteen feet (14') above the surface of the street or sidewalk. Said owners shall remove all dead, diseased, or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light or interferes with visibility of any traffic control device or sign. (2011 Code, § 2-114)

2-115. Dead or diseased tree removal on private property. The city shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city. The city tree board will notify in writing the owners of such trees and charge the cost of removal. (2011 Code, § 2-115)

2-116. Removal of stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. (2011 Code, § 2-116)

2-117. Interference with city tree board. It shall be unlawful for any person to prevent, delay or interfere with the city tree board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this chapter. (2011 Code, § 2-117)

2-118. Arborists license and bond. It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first obtaining written permission from the Harrogate Tree Board. Permission shall not be required of any public service company or city employee doing such work in the pursuit of their public service endeavors. Before any permission shall be issued by the tree board each firm shall provide evidence of liability insurance in the minimum amounts covered by the Tennessee Governmental Tort Liability Act, being *Tennessee Code Annotated*, §§ 29-20-101, *et seq*. indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as herein described. (2011 Code, § 2-118, modified)

2-119. Review by board of mayor and aldermen. The board of mayor and aldermen shall have the right to review the conduct, acts, and decisions of the city tree board. Any person may appeal from any ruling or order of the city tree board to the board of mayor and aldermen who may hear the matter and make final decision. (2011 Code, § 2-119)

2-120. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 2-120)

CHAPTER 2

PARKS AND RECREATION ADVISORY BOARD

SECTION

2-201. Powers and duties.
2-202. Membership.
2-203. Election of officers.
2-204. Meetings.
2-205. Order of business.
2-206. Adoption and amendment.

2-201. Powers and duties. (1) The role of the parks and recreation advisory board is to serve as an advisory body to the Harrogate Mayor and Board of Aldermen on all matters related to recreational activities and facilities provided by the City of Harrogate.

(2) In performing this role, the parks and recreation advisory board shall have the following duties and responsibilities:

(a) Adopt a set of bylaws.

(b) Review and/or recommend policies and procedures that encompass recreational activities and facilities.

(c) Review the utilization of facilities and make recommendations regarding lease, acquisition, sale, design, improvement, maintenance, operations and scheduling of facilities/equipment provided by the City of Harrogate.

(d) Advise the mayor and board of aldermen of the needs of the different recreational organizations within the City of Harrogate, and make appropriate recommendations.

(e) Review policies and make recommendations regarding fees, services, charges, and fines related to program activities, facilities and equipment provided by the city.

(f) Research grants/funding of recreational programs and facilities.

(g) Establish recreational activities and programs.

(h) To perform any other related duties as directed by the Harrogate Board of Mayor and Aldermen. (2011 Code, § 2-201, modified)

2-202. Membership. (1) The parks and recreation advisory board shall consist of six (6) voting members, all of whom shall be residents of the City of Harrogate. There shall be one (1) representative of the Harrogate Board of Mayor and Aldermen, one (1) representative of Lincoln Memorial University, and four (4) citizen representatives. The Harrogate Board of Mayor and Aldermen shall appoint all members for a term of two (2) years.

(2) If a vacancy should occur on the parks and recreation advisory board for any reason, a recommendation by the respective organizations shall be made to that seat for the duration of the un-expired term, and the mayor and board of aldermen shall appoint the vacant seat. (2011 Code, § 2-202)

2-203. Election of officers. (1) A chairman, a vice-chairman and a secretary shall be elected by the parks and recreation advisory board members and confirmed into office by approval by the Harrogate Mayor and Board of Aldermen.

(2) The chairman shall preside over the meetings of the parks and recreation advisory board and appoint all standing and temporary committees.

(3) The vice-chairman shall serve as a temporary chairman in the absence of the chairman. In the event that both the chairman and the vice-chairman are absent, a temporary chairman shall be elected to conduct that meeting and proceed with the order of business.

(4) The secretary shall, in concurrence with the chairman, prepare agendas for all meetings, prepare the minutes of all meetings, provide public notice of scheduled meetings, and perform other duties as necessary. (2011 Code, § 2-203)

2-204. Meetings. (1) Regular meetings shall be held on the second Monday of each month at 6:00 P.M. at the Harrogate City Hall. Members shall be notified by e-mail of each regular meeting by the secretary.

(2) All regular meetings of the parks and recreation advisory board shall be open to the public.

(3) Four (4) voting members of the parks and recreation advisory board shall constitute a quorum. A quorum shall be present before any business is transacted.

(4) In order for the parks and recreation advisory board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings.

(5) All actions of the parks and recreation advisory board shall be put before its members in the form of a motion, duly seconded, and voted upon by members present for a quorum.

(6) Voting shall be done by show of hands. The chairman shall vote only in case of a tie.

(7) The parks and recreation advisory board shall keep a record of its meetings, recommendations, findings and determinations. These records shall be public and maintained in the files of the Parks and Recreation Advisory Board of the City of Harrogate at the City Hall. (2011 Code, § 2-204)

2-205. Order of business. (1) Order of business shall be as follows:

(a) Determination of quorum.

(b) Approval of previous minutes.

(c) Old business.
(d) New business.
(e) Adjournment.

(2) Items of business at the regular meeting shall appear on the agenda. All items on the agenda shall be presented to the secretary at least seven (7) days prior to the meeting. (2011 Code, § 2-205)

2-206. Adoption and amendment. (1) Bylaws of the parks and recreation advisory board shall be adopted by a majority vote of the mayor and board of aldermen.

(2) Bylaws of the parks and recreation advisory board may be amended from time to time by majority vote of the mayor and board of aldermen at a duly constituted meeting; provided that such proposed amendment shall have been first submitted to all its members in writing prior to the meeting at which the vote is taken. (2011 Code, § 2-206)

CHAPTER 3

BOOK STATION COMMITTEE

SECTION

2-301. Powers and duties.
2-302. Membership.
2-303. Election of officers.
2-304. Meetings.
2-305. Order of business.
2-306. Adoption and amendment.

2-301. Powers and duties. (1) The role of the book station board is to serve as an advisory body to the Harrogate Board of Mayor and Aldermen on all matters related to book station activities provided by the City of Harrogate.

(2) In performing this role, the book station board shall have the following duties and responsibilities:

(a) Adopt a set of bylaws.

(b) Review and/or recommend policies and procedures that encompass book station activities.

(c) Review the utilization of the book station and make recommendations regarding the acquisition, sale, design, improvement, maintenance, and operations of the book station facilities and/or equipment provided by the City of Harrogate.

(d) Advise the board of mayor and aldermen of the needs of the book station and make appropriate recommendations.

(e) Review policies and make recommendations regarding fees, services, charges, and fines related to program activities, facilities and equipment provided by the city.

(f) Research grants/funding of recreational programs and facilities.

(g) Establish book station activities and programs.

(h) To perform any other related duties as directed by the Harrogate Board of Mayor and Aldermen. (2011 Code, § 2-301)

2-302. Membership. (1) The book station board shall consist of five (5) voting members, all of whom shall be residents of the City of Harrogate. There shall be four (4) citizen representatives and one (1) representative of the Harrogate Board of Mayor and Aldermen. All members shall be appointed by the Harrogate Board of Mayor and Aldermen for a term of two (2) years.

(2) If a vacancy should occur on the book station board for any reason, a recommendation shall be made to that seat for the duration of the unexpired term, and the board of mayor and aldermen shall appoint the vacant seat. (2011 Code, § 2-302)

2-303. Election of officers. (1) A chairman, a vice-chairman and secretary shall be elected by the book station board members and confirmed into office by approval by the Harrogate Board of Mayor and Aldermen.

(2) The chairman shall preside over the meetings of the book station board and appoint all standing and temporary committees.

(3) The vice-chairman shall serve as a temporary chairman in the absence of the chairman. In the event that both the chairman and the vice-chairman are absent, a temporary chairman shall be elected to conduct that meeting and proceed with the order of business.

(4) The secretary shall, in concurrence with the chairman, prepare agendas for all meetings, provide public notice of scheduled meetings, and perform other duties as necessary. (2011 Code, § 2-303)

2-304. Meetings. (1) Regular meetings shall be held on the second Saturday of each month at 10:00 A.M. at the Harrogate Book Station. Members shall be notified by e-mail of each regular meeting by the secretary.

(2) All regular meetings of the book station board shall be open to the public.

(3) Three (3) voting members of the book station board shall constitute a quorum. A quorum shall be present before any business is transacted.

(4) In order for the book station board to carry out its duties and responsibilities, it is necessary for all members to attend the meetings. Three (3) consecutive unexcused absences or failing to attend seventy-five percent (75%) of the meetings in a year will allow the chairman to request the position to be vacated and a replacement to be appointed by the Harrogate Board of Mayor and Aldermen.

(5) All actions of the book station board shall be put before its members in the form of a motion, duly seconded, and voted upon by all unexcused members present for a quorum. At least three (3) voting members shall be present before a vote may be taken.

(6) Voting shall be done by show of hands. The chairman shall vote only in case of a tie.

(7) The book station board shall keep a record of its meetings, recommendations, findings and determinations. These records shall be public and maintained in the files of the Book Station Board of the City of Harrogate at the City Hall. (2011 Code, § 2-304, modified)

2-305. Order of business. (1) Order of business shall be as follows:

(a) Determination of quorum;
(b) Approval of previous minutes;
(c) Old business;
(d) New business; and
(e) Adjournment.

(2) Items of business at the regular meeting shall appear on the agenda. All items on the agenda shall be presented to the secretary at least five (5) days prior to the meeting. (2011 Code, § 2-305)

2-306. **Adoption and amendment**. (1) Bylaws of the book station board shall be adopted by a majority vote of the Harrogate Board of Mayor and Aldermen.

(2) Bylaws of the book station board may be amended from time to time by majority vote of the Harrogate Board of Mayor and Aldermen at a duly constituted meeting; provided that such proposed amendment shall have been first submitted to all its members in writing prior to the meeting at which the vote is taken. (2011 Code, § 2-306)

TITLE 3

MUNICIPAL COURT

CHAPTER
1. CITY JUDGE.
2. COURT ADMINISTRATION.
3. SUMMONSES AND SUBPOENAS.
4. BONDS AND APPEALS.

CHAPTER 1

CITY JUDGE

SECTION
3-101. City judge.
3-102. Jurisdiction.

3-101. City judge. (1) Appointment. The city judge designated by the charter to handle judicial matters within the city shall be a licensed attorney appointed by the board of mayor and aldermen and shall serve at the pleasure of the governing body. Vacancies in the office of the city judge arising from resignation, disqualification, or for any other reason whatsoever, shall be filled in the same manner as prescribed for the appointment of the city judge.

(2) Qualifications. The city judge shall be licensed by the State of Tennessee to practice law, and be a resident of Claiborne County. If the city judge for any reason removes his/her domicile from Claiborne County after his/her appointment, the removal of his/her domicile shall automatically create a vacancy in the office of city judge.

(3) Judge pro tem. During the absence of the city judge from his/her duties for any reason or at any time the office of the city judge is vacant, the board of mayor and aldermen may appoint a city judge pro tem to serve until the city judge returns to his/her duties or the office of city judge is no longer vacant. The city judge pro tem shall have all the qualifications required, and powers, of the city judge.

(4) Salary. The salary of the city judge shall set by the board of mayor and aldermen. (Ord. #121, May 2019)

3-102. Jurisdiction. The city judge shall have the authority to try persons charged with the violation of municipal ordinances, and to punish persons convicted of such violations by levying a civil penalty under the general penalty provision of this code. (Ord. #121, May 2019)

CHAPTER 2

COURT ADMINISTRATION

SECTION

3-201. Maintenance of docket.
3-202. Imposition of penalties and costs.
3-203. Disposition and report of penalties and costs.
3-204. Contempt of court.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him/her in his judicial capacity. The docket shall include for each defendant such information as name; summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant. (Ord. #121, May 2019)

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

(2) In all cases heard and determined by him/her, the city judge shall impose court costs in the amount of one hundred dollars ($100.00). One dollar ($1.00) of the court costs shall be forwarded by the court clerk to the state treasurer to be used by the administrative office of the courts for training and continuing education courses for municipal court judges and municipal court clerks.

(3) In addition, pursuant to authority granted in *Tennessee Code Annotated,* § 67-4-601, the court shall levy a local litigation tax in the amount of thirteen dollars and seventy-five cents ($13.75) in all cases on which state litigation tax is levied. (Ord. #121, May 2019)

3-203. Disposition and report of penalties and costs. All funds coming into the hands of the city judge or city court clerk in the form of penalties, costs, and forfeitures shall be recorded by him/her and paid over daily to the city. At the end of each month, he/she shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all penalties and costs imposed by his/her court during the current month and to date for the current fiscal year. (Ord. #121, May 2019)

3-204. Contempt of court. Contempt of court is punishable by a fine of fifty dollars ($50.00), or such lesser amount as may be imposed in the judge's discretion. (Ord. #121, May 2019)

CHAPTER 3

SUMMONSES AND SUBPOENAS

SECTION
3-301. Issuance of summonses.
3-302. Issuance of subpoenas.

3-301. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may, in his/her discretion, issue a summons ordering the alleged offender personally to appear before the city court at a time specified therein to answer to the charges against him/her. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (Ord. #121, May 2019)

3-302. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he/she believes will be relevant and material to matters coming before his/her court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (Ord. #121, May 2019)

CHAPTER 4

BONDS AND APPEALS

SECTION
3-401. Appeals.
3-402. Bond amounts, conditions, and forms.

3-401. Appeals. (1) Any person dissatisfied with any judgment of the city court against him may, within ten (10) days thereafter, Sundays exclusive, appeal to the circuit court of the county upon giving bond.

(2) "Person" as used in this section includes, but is not limited to, a natural person, corporation, business entity, or the municipality. (Ord. #121, May 2019)

3-402. Bond amounts, conditions, and forms. (1) Appeal bond. An appeal bond in any case shall be two hundred fifty dollars ($250.00) for such person's appearance and the faithful prosecution of the appeal.

(2) Pauper's oath. A bond is not required provided the defendant/appellant:

(a) Files the following oath of poverty:

I, ________________, do solemnly swear under penalties of perjury, that owing to my poverty, I am not able to bear the expense of the action which I am about to commence, and that I am justly entitled to the relief sought, to the best of my belief; and

(b) Files an accompanying affidavit of indigency. The affidavit of indigency must be sworn to by the defendant/appellant and the facts therein may be investigated. (Ord. #121, May 2019)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL AND TRAVEL POLICIES.
2. DRUG AND ALCOHOL TESTING POLICY.

CHAPTER 1

PERSONNEL AND TRAVEL POLICIES

SECTION

4-101. Generally.
4-102. Employees.
4-103. Hiring procedures.
4-104. Benefits.
4-105. State and federal personnel mandates.
4-106. Miscellaneous personnel policies.
4-107. Separation and disciplinary action.
4-108. Personnel policy changes.

4-101. Generally. (1) Purpose. The purpose of this chapter is to establish a fair and uniform system of personnel administration for all employees of the City of Harrogate, Tennessee that is based on merit and fitness. The system shall provide means to select, develop, and maintain an effective municipal workforce through the impartial application of personnel policies and procedures free from personal and political considerations and without regard to race, color, religion, national origin, political affiliations, sex or gender identification, disability, age, genetic information, or any class protected by law.

(2) At-will employer. The City of Harrogate, Tennessee is an at-will employer. Nothing in this chapter may be construed as creating a property right or contractual right to any job for any employee.

(3) Coverage. The following personnel are not covered by this policy, unless otherwise provided:

(a) All elected officials;

(b) Members of appointed boards and commissions;

(c) Consultants, advisers, and legal counsel rendering temporary professional service;

(d) The city attorney;

(e) Independent contractors and/or contract employees;

(f) Volunteer personnel; and

(g) The city judge.

All other employees of the municipal government are covered by this personnel policy. (Ord. #101, Oct. 2016)

4-102. Employees. (1) Full-time. Full-time employees are individuals employed by the municipal government who normally work thirty-six (36) hours per week.

(2) Part-time. Part-time employees are individuals who may not work on a daily basis or work on a daily basis fewer than eight (8) hours a day and may work fewer than thirty-six (36) hours per week or who are temporary and/or seasonal employees.

(3) Exempt/non-exempt status under the Fair Labor Standards Act (FLSA), being *Tennessee Code Annotated*, § § 201, *et seq*.

(a) Exempt employees: Employees that are compensated on the "whole job" basis and are exempt from overtime in accordance with 29 CFR Part 541. These employees are paid on a salary basis, at the salary level defined by law, and perform specific duties as defined by law.

(b) Non-exempt employee: Employees that are compensated on an hourly basis and are not exempt from overtime in accordance with 29 CFR Part 541.

(c) Duties as described in the employee job description may be helpful in determining exempt/non-exempt status based on type of compensation level if compensated, and duties performed. (Ord. #101, Oct. 2016, modified)

4-103. Hiring procedures. (1) Policy statement. The primary objective of this hiring policy is to ensure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities. If an accommodation is needed, please contact the city recorder.

(2) Application. All persons seeking appointment or employment with the municipality must complete a standard application form provided by the municipal government. Applications for employment shall be accepted in the city recorder's office during regular office hours only. Applications will remain on active status for six (6) months after accepted or until the job for which the application is submitted is filled, whichever period of time is less.

The city complies with the Americans with Disabilities Act, being 42 U.S.C. §§ 12101, *et seq*. Applicants requesting reasonable accommodations at any point in the employment process should contact the city recorder.

(3) Interviews. All appointments will be preceded by an interview with the board of mayor and aldermen.

(4) Pre-appointment exams. For certain positions, the employee may be required to undergo a validated physical agility examination related to the

essential functions of the job, validated written and/or oral tests related to the essential functions of the job, drug testing, and, upon a conditional offer of employment, a medical examination to determine the employee's ability to perform the essential functions of the job. Reasonable accommodations shall be made in the physical agility exam for applicants with disabilities making a request for accommodations.

(5) Appointments, etc. All appointments shall be made in accordance with lawful provisions of the municipal charter if there are applicable provisions in the charter. (Ord. #101, Oct. 2016, modified)

4-104. Benefits. (1) Holidays. Employees must be in an active pay status on the work day before and on the work day after the holiday, unless otherwise excused by the supervisor, to receive compensation.

Generally, full-time employees are allowed a day off with pay on the following holidays. City hall will be closed on these days. Any employee required to work on a regular holiday will be granted an additional eight (8) hours pay for the holiday.

(a) New Year's Day.
(b) Martin Luther King, Jr. Day.
(c) President's Day.
(d) Memorial Day.
(e) June 19 (Juneteenth).
(f) Independence Day (July 4th).
(g) Labor Day.
(h) Veteran's Day.
(i) Thanksgiving Day.
(j) Christmas Eve.
(k) Christmas Day.

The following days are considered to be non-paid holidays. City hall will be closed on these days. If an employee is normally scheduled to work, he will be paid regular pay only for that day.

(l) Good Friday.
(m) Friday following Thanksgiving.

If a holiday falls on Saturday, it will be observed on the preceding Friday. If a holiday falls on Sunday, it will be observed on the following Monday.

(2) Paid Time Off (PTO) leave. All full-time employees of the municipality shall accrue PTO leave monthly upon the completion of each calendar month of service. PTO leave will begin to accrue as of the first full month of employment, but cannot be taken until the employee has completed three (3) months of employment. As the number of years of service increases, the amount of leave granted increases and may accumulate to the maximum accrual as shown in the table below:

Years of Service	PTO Accrual Per Month	Annual Accrual
1 - 9	6.67 hours	80 hours
10 - 19	10.00 hours	120 hours
20+	13.33 hours	160 hours

Up to twenty-four (24) hours of unused annual PTO leave may be carried to the following year; however, no more than twenty-four (24) hours may be carried over during any calendar year.

PTO leave shall be scheduled in advance for the mutual convenience of the employee and the city so proper adjustments can be made in work schedules. Supervisors preparing leave schedules will give choices of dates based on the employee's seniority. An employee may not begin his or her paid leave until his or her request had been approved by the supervisor.

Upon separation, employees are not entitled to be reimbursed for unused PTO leave.

(3) Bereavement leave. It is the policy of the city to provide all regular, full-time employee time off without loss of pay due to the death of an immediate family member as defined below. An employee who is absent during his/her regularly scheduled work week due to the death of an immediate family member shall receive payment for reasonable and customary days absent, such days of payment not to exceed three (3) consecutive regularly scheduled work days. Immediate family shall be deemed to include:

(a) Spouse;
(b) Child or stepchild;
(c) Parent, stepparent or foster parent;
(d) Sibling(s); and
(e) Grandparents and grandchildren.

(4) Sick leave. All full-time employees shall earn sick leave at the rate of one-half (1/2) days per month of employment (six (6) days per year). Up to four (4) sick days may be carried over from calendar year to calendar year; provided, however, that at no time may an employee accrue more than ten (10) days of sick leave. (Ord. #101, Oct. 2016, as amended by Ord. #136, Nov. 2021, modified)

4-105. State and federal personnel mandates. (1) Discrimination prohibited. The municipality is an equal opportunity employer. Except as otherwise permitted by law, the municipality will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, gender identification, genetic

information or national origin, or because the individuals forty (40) or more years of age. The municipality will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment (title VII of Civil Rights Act of 1964, 42 U.S.C. §§ 2000e through 2000e-15; Equal Pay Act 1963, 29 U.S.C. § 206(d); Age Discrimination in Employment Act, 29 U.S.C. §§ 621, *et seq.*; Americans With Disabilities Act, 42 U.S.C. §§ 506, *et seq.*).

The city is committed to preventing workplace violence and to maintaining a safe work environment. It is the policy of city to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the local government's activities. Employees and customers are to be treated with courtesy and respect at all times.

Employees are expected to maintain a productive work environment free from harassing or disruptive activity including threats of physical violence. No form of harassment will be tolerated, including sexual harassment and harassment based on race, national origin, religion, disability, pregnancy, age, military status, sex or other protected category, as provided by law.

This policy applies to all city employees, elected officials, appointed officials, part-time/temporary employees, and contractors.

The city will not tolerate verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile environment.

(a) No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following: verbal harassment, physical harassment, or visual harassment.

(b) Charges of violence and harassment may be reported to any supervisory employee of the local government, including the city recorder and the mayor. The city will promptly investigate reports of workplace violence including suspicious individuals or activities.

(c) The board of mayor and aldermen shall appoint a sub-committee consisting of two (2) aldermen, one (1) from the east ward and one (1) from the west ward, on a case by case basis, which shall thereafter be charged with investigating all cases of workplace violence and harassment.

(d) Copies of the investigative report with recommendations for appropriate action will be turned over to the board of mayor and aldermen as appropriate for further action.

(e) Anyone determined to be responsible for threats of or actual violence or other conduct that is in violation of this policy will be subject to prompt disciplinary action up to and including termination.

(f) Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors or the city attorney before the situation escalates into potential violence. The city is eager to assist in the resolution of employee disputes, and will not discipline employees for raising such concerns. Employees have the right to file a police report at their own discretion. Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about harassment.

(2) Sexual harassment prohibited. Sexual harassment by any employee or elected or appointed official of the municipality will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors, or adversely affects an employee's job performance. Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the title VI coordinator, city recorder or mayor.

Within the limits of the Tennessee Open Records Law, being *Tennessee Code Annotated*, §§ 8-4-604 and 10-7-503, the municipality will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

The municipality will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the municipality determines that sexual harassment has occurred, corrective action will be taken. The municipality will make the corrective action proportional to the severity of the conduct. If it is determined that no harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons for the determination.

(3) Occupational safety and health. The municipality shall provide job safety and health protection and training for all employees in accordance with the Occupation Safety and Health Administration (OSHA) Legislation (29 U.S.C. §§ 656, *et seq.*) and the Tennessee OSHA Law (*Tennessee Code Annotated*, §§ 50-3-101, *et seq.*)

(4) Overtime compensation. The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of municipal employees (29 CFR §§ 553.1, *et seq.*) Mistakes or errors in compensation shall be brought to the attention of the supervisor and will be corrected in a timely manner. When it becomes necessary for a non-exempt employee to work overtime hours, attend meetings or return to duty from off-duty hours due to an emergency that results in hours worked exceeding forty (40) in a workweek, the employee will be

compensated according to the FLSA provisions at a rate of one and one-half (1-1/2) times the employee's regular rate of pay. The city reserves the right to adjust work schedules and reduce hours worked to minimize budgetary impact of overtime.

(5) Military leave/veterans' re-employment. All employees who are members of or who may become members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and must be given leave with pay not exceeding twenty (20) working days in any one (1) calendar year (*Tennessee Code Annotated*, § 8-33-109). Also, any employee of the municipality who leaves his/her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the same or comparable position in accordance with Veterans' Re-employment Rights (38 U.S.C. § 202-2016) and the Tennessee Military Leave Act (*Tennessee Code Annotated*, §§ 8-33-101, *et seq.*)

(6) Family and medical leave. If the municipality has fifty (50) or more employees on the payroll an eligible employee (one (1) who has been employed at least twelve (12) months and worked at least one thousand two hundred fifty (1,250) hours in the preceding twelve (12) months) will be provided up to twelve (12) calendar weeks of leave for medical conditions of the employee or his/her family members in accordance with the Family and Medical Leave Act (P.L. 103-3). If eligible under FMLA, the employer may provide up to twenty-six (26) weeks of leave for an employee or family member who is the primary caretaker of the spouse, son, daughter, parent or next of kin of a servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty.

(7) Commercial driver's license. All employees that drive:

(a) A vehicle with a gross weight of more than twenty-six thousand (26,000) pounds;

(b) A trailer with a gross weight of more than ten thousand (10,000) pounds;

(c) A vehicle designed to transport more than fifteen (15) passengers, including the driver; and

(d) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee commercial driver's license in accordance with *Tennessee Code Annotated*, §§ 55-50-101, *et seq.* Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.

(8) Employee drug testing. All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, title V) and the Natural Gas Pipeline Safety

Act (49 CFR Part 199). The municipality's procedures for drug testing can be found in appendix C of the municipal code.

(9) Employee right to contact elected officials. No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be reprimanded for making untrue allegations concerning any job-related matter (*Tennessee Code Annotated*, §§ 8-50-601 to 604).

(10) Civil leave. Civil leave with pay shall be granted to employees for the following reasons:

(a) Jury duty (*Tennessee Code Annotated*, §§ 22-1-101, *et seq.*); or

(b) To answer a subpoena to testify for the municipality.

If the employee received compensation for his/her jury serve, it must be remitted to the city.

(11) Voting. When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with *Tennessee Code Annotated*, § 2-1-106.

(12) Political activity. Employees have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election (*Tennessee Code Annotated*, § 7-51-1501).

(13) Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy as required by *Tennessee Code Annotated*, § 6-54-901.

Travel regulations herein govern travel on official business for the City of Harrogate and apply to all city personnel and elected and appointed officials. Travel expenses for spouse, children, or other guests will not be paid by the city. The mayor and city recorder are responsible for enforcement of this travel policy.

City personnel who travel on official city business should receive prior approval from the mayor. Unauthorized travel costs may not be reimbursed.

Prior to travel, the employee should furnish the mayor a "request for travel" form showing a reasonable estimate of all costs associated with the trip and the amount of advance money requested. Registration fees, airfares, and similar expenses are to be invoiced directly to the city. If travel is for the purpose of attending a conference or seminar, a copy of the program should be attached to the request for travel form either before or after the trip.

City personnel should complete the request for travel form in a timely manner and submit it to the mayor for approval upon completion of travel. Receipts for lodging, vehicle rental, public carrier travel, meals and other costs are required except for taxis, tolls, tips, etc., less than five dollars ($5.00). A

brief summary of the context of the meeting or conference as it relates to the city should also accompany the travel form. All travel forms must be signed by the traveler; no stamped signatures will be allowed.

City personnel and officials should be prudent and cautious in the expenditure of all funds for official travel and should make use of discounts for early registration, airline tickets, and governmental rates for lodging or rental care expenses. Allowable expenses are those that are practical, necessary, and economical. Expenses incurred by and for persons other than city personnel are not reimbursable when official travel is combined with personal travel; only costs attributable to city business will be reimbursed. Authorized personnel and officials may use credit cards at the discretion of the mayor and the card will be returned to the city recorder's office immediately following the travelers' return.

(a) Travel documentation. It is the responsibility of the authorized traveler to:

(i) Prepare and accurately describe the travel;

(ii) Certify the accuracy of the reimbursement request;

(iii) Note on the reimbursement form all direct payments and travel advances made by the local government; and

(iv) File the reimbursement form with the necessary supporting documents and original receipts.

The reimbursement form should be filed with the city recorder within ten (10) days of return or at the end of the month, whichever is more practical.

(b) Transportation. (i) Air. The city will pay for tourist or common class air travel. Airline travel should be planned sufficiently in advance to take advantage of any discounts so that tickets can be invoiced to the city.

Any mileage credits for frequent flyer programs will accrue to the individual traveler; however, the city will not pay for additional fees above regular cost for traveler to extend stays, circuitous routing, scheduling with a particular carrier, etc., in order to receive mileage credit.

The city will not reimburse travel by private aircraft unless authorized by the mayor in advance of travel.

(ii) Automobile. Automobile transportation may be used for official out-of-town travel when common carrier transportation cannot be scheduled, when automobile travel is more economical, or when expenses can be reduced by two (2) or more city employees traveling together. Mileage will be paid for the use of a private vehicle from origin to destination by the most direct route when on official city business at a rate not to exceed the rate allowed by the Internal Revenue Service. Local travel related to official business in the area will be reimbursed.

Mileage for use of a privately owned vehicle transporting two (2) or more authorized travelers on the same trip will be paid to the owner or person who has custody of the vehicle.

City personnel traveling in city vehicles must furnish receipts for gas, oil, and any necessary automobile repairs.

Rental cars may be used when public transportation services are not sufficient or when it is less expensive than other available means. Rental car usage must be approved by the mayor. Liability coverage listing the City of Harrogate as insured must be obtained from the vendor for any use of rental vehicles.

Fines for traffic or parking violations will not be reimbursed by the city.

Reasonable taxi or public transportation fares will be allowed when bus or limousine service from the airport is not furnished. Taxi fare will be allowed for travel between lodging quarters and meetings or conferences. The city will pay airport-parking fees; provided such fees do not exceed normal taxi-limousine fares to and from the airport.

(c) Lodging. Lodging expenses paid by the city will be limited to the minimum number of nights required to conduct the assigned city business except in instances when it is financially advantageous to arrive earlier or stay later in order to obtain a discount air fare. The city will not pay for any additional expense if the traveler chooses to arrive earlier or stay later.

The city will pay lodging expenses at the single room rate, except when two (2) or more city personnel share a room. When making reservations, government or weekend rates should be requested if less than the conference or regular rate.

All costs for lodging must be supported by documentation.

(d) Development and communications. The mayor may utilize city credit cards or may otherwise claim reimbursement for valid and appropriate business and city-related meal and development expenses including, but not limited to, business meals with other officials, business location prospects, and other appropriate persons.

(e) Miscellaneous expenses/items. Registration fees for approved conferences, conventions, seminars, meetings, etc., will be allowed including cost of official banquets and/or luncheons. Travel should be approved by the mayor before registration is paid. Amount of registration must be shown on the request for travel form. All trip-related travel expenses should be included on one (1) request for travel form.

Tips and/or gratuities in excess of fifteen percent (15%) will not be reimbursed by the city.

Expenditures for laundry, in-room movies, valet services and other personal charges will not be paid by the city.

Official long distance telephone calls are allowed but only one (1) personal telephone call per day is permitted unless approved by the mayor. The maximum reimbursement for personal phone costs is five dollars ($5.00) per day.

Telegrams-telegraph and facsimile service may be used for official communication if necessary and essential.

Special arrangements must be made with the mayor for attendance at schools, seminars, or institutes either in-state or out-of-state requiring absences from the city of one (1) week or longer. Police officers attending the FBI Academy on approval of the mayor are exempt from this requirement.

Any miscellaneous expenses must be explained on the completed request for travel form.

If fraudulent claims are discovered, disciplinary action may be taken with possible civil or criminal charges being filed on behalf of the city.

Any travel expenses not addressed above but which are incurred in the course of official city business will be evaluated on a case-by-case basis by the mayor. (Ord. #101, Oct. 2016, modified)

4-106. Miscellaneous personnel policies. (1) Outside employment. No full-time employee of the municipality may accept any outside employment without written authorization from the mayor.

(2) Use of municipal time, vehicles, facilities, etc. No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other person, group, or organization other than the municipality. Decisions to permit use by charitable, civic or other organizations will be made exclusively by the governing body or their designee.

(3) Accepting of gratuities. No employee shall accept any money, other considerations, or favors from anyone other than the municipality for performing an act that he/she would be required or expected to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the municipality's business.

(4) Work attendance. All employees of the city shall be in attendance at their regular work and at their regular place of work as may be designated by the department head under whose supervision such employees shall work. The head of every city department shall keep a daily attendance record of the employees working under such supervisor and shall report the same to the mayor. It is the duty and responsibility of each employee to report absences to his or her supervisor with as much advance notice as is practicable. The supervisor is to report absences to the mayor or designee as soon as is practicable.

(5) Time reporting. All employees shall record actual hours worked on a time sheet. Department heads and supervisors shall review and sign all time records. The following rules shall apply to the use of time sheets/time cards:

(a) Employees are responsible for recording/stamping their starting time, quitting time, and total hours worked for each work day.

(b) Employees are not permitted to sign in/clock in more than ten (10) minutes before their normal starting time, on a consistent basis or to sign out/clock out late after their normal quitting time without the prior approval of their supervisor.

(c) Employees shall not remove a time sheet/time cards from the designated employee area or leave the premises with said time sheet/time card.

(d) Employees given permission by their supervisor to leave their job assignment for any purpose besides city business during work hours must sign/clock out when leaving and sign in upon returning to work.

(e) An employee failing to properly sign his/her time sheet/time card must have it immediately approved and initialed by a supervisor or department head to ensure payment for hours worked. Failure to properly record hours worked may result in not being paid for those hours in question on the time sheet. Continued non-compliance may result in disciplinary action.

(f) No unauthorized representative/employee shall mark on another employee's time sheet/time card. Employees that alter another employees' time sheet/time card shall be subject to disciplinary action.

(6) Ethics policy. The complete City of Harrogate Ethics Policy is available in the City of Harrogate Municipal Code, title 1, chapter 4. (Ord. #101, Oct. 2016)

4-107. Separation and disciplinary action. All separations of employees shall be designated as one (1) of the following types and shall be accomplished in the manner indicated: resignation, lay-off, disability, death, retirement and dismissal. At the time of separation and prior to final payment, all records, assets, and other items or city property in the employee's custody shall be transferred to the department head and certification to this effect shall be executed. Any amount due to a shortage in the above shall be withheld from the employee's final compensation up to the limits imposed by law.

(1) Resignation. An employee may resign by submitting in writing the reasons and the effective date of the resignation to his department head as far in advance as possible, but a minimum of two (2) weeks' notice is requested. Failure to comply with this requirement may be cause for denying future employment with the city. Unauthorized absence from work for a period of three (3) consecutive days may be considered by the department head as a resignation.

Department heads shall forward all notices of resignation to the mayor or designee immediately upon receipt.

(2) Lay-off. The governing body may lay-off any employee when it deems it necessary by reason of shortage of funds or work, the abolition of a position, or other material changes in the duties or organization, or for related reasons which are outside the employee's control and which do not reflect discredit upon service of the employee.

(3) Disability. An employee may be separated for disability when he cannot perform the essential functions of the position because of a physical or mental impairment which cannot be reasonably accommodated by the city without undue hardship. Action may be initiated by the employee or the city, but in all cases it must be supported by medical evidence acceptable to the governing body. The city may require an examination at its expense and performed by a licensed physician of its choice.

(4) Retirement. Whenever an employee meets the conditions set forth in the pension retirement plan regulations, he may elect to retire and receive all benefits earned in the city's retirement plan.

(5) Disciplinary action. Whenever employee performance, attitude, work habits, or personal conduct fall below a desirable level, supervisors should inform employees promptly and specifically of such lapses and shall give them counsel and assistance to improve performance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action.

(6) Dismissal. Employees may be dismissed for cause, for no cause, or for any cause as long as it does not violate federal and/or state law or the municipal charter. (Ord. #101, Oct. 2016)

4-108. Personnel policy changes. Nothing in this chapter may be construed as creating a property right or contract right to the job for any employee. The provisions of this personnel policy may be unilaterally changed by ordinance of the governing body from time to time as the need arises. (Ord. #101, Oct. 2016)

CHAPTER 2

DRUG AND ALCOHOL TESTING POLICY

SECTION
4-201. Drug and alcohol testing policy.

4-201. Drug and alcohol testing policy. The policies for drug and alcohol testing for the City of Harrogate are contained in their entirety in appendix C. (2011 Code, § 4-201)

TITLE 5

MUNICIPAL FINANCE AND TAXATION[1]

CHAPTER
1. DEPOSITORIES.
2. PURCHASING PROCEDURES.
3. WHOLESALE BEER TAX.

CHAPTER 1

DEPOSITORIES

SECTION
5-101. Authorized depositories.
5-102. Depository contract.

5-101. Authorized depositories. The following banking and/or savings and loan institutions situated in the State of Tennessee are hereby designated as depository for the public monies of the city. The officials charged with the responsibility of depositing said funds shall make such deposits in no other or different banking institutions in the state: First Century Bank, First State Bank, Home Federal Bank, Local Government Investment Pool, and Commercial Bank. (2011 Code, § 5-101, modified)

5-102. Depository contract. The city complies with the state regulations for depositories and collateral as found in *Tennessee Code Annotated*, title 9, chapter 4 as it pertains to municipal funds. (2011 Code, § 5-102)

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[1]Charter references
For specific charter provisions on depositories of municipal funds, see *Tennessee Code Annotated*, § 6-4-402.

CHAPTER 2

PURCHASING PROCEDURES

SECTION

5-201. Purchasing agent–office created.
5-202. Duties of purchasing agent.
5-203. Public advertising and competitive bidding.

5-201. Purchasing agent–office created. As provided in *Tennessee Code Annotated*, §§ 6-56-301, *et seq*., the office of purchasing agent is hereby created and the mayor shall faithfully discharge the duties of said office or appoint an individual under his direct supervision to make purchases for the City of Harrogate. Purchases shall be made in accordance with the Municipal Purchasing Law of 1983 and amendments thereto, this chapter and purchasing procedures approved by the government body. Purchasing procedures for the City of Harrogate are contained in their entirety in Appendix B. (2011 Code, § 5-201)

5-202. Duties of purchasing agent. The purchasing agent, or designated representative, as provided herein, shall purchase materials, supplies, services, and equipment, provide for leases and lease-purchases and dispose of surplus property in accordance with purchasing procedures approved by the governing body and filed with the city recorder. (2011 Code, § 5-202)

5-203. Public advertising and competitive bidding. 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 from advertisement and bidding by the Municipal Purchasing Act of 1983, being *Tennessee Code Annotated*, §§ 6-56-301, *et seq*., and other state regulations. At least three (3) written quotes, whenever possible, shall be required for purchases costing less than the city's competitive bid threshold of twenty-five thousand dollars ($25,000.00) but more than forty percent (40%) of such threshold. (2011 Code, § 5-203, modified, as amended by Ord. #140, Sept. 2022)

CHAPTER 3

WHOLESALE BEER TAX

SECTION
5-301. To be collected.

5-301. 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]

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[1]State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax in accordance with § 57-6-103. 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.

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE DEPARTMENT.

CHAPTER 1

POLICE DEPARTMENT

SECTION

6-101. County sheriff's department to enforce municipal ordinances.

6-101. County sheriff's department to enforce municipal ordinances. The City of Harrogate, Tennessee, pursuant to Tennessee Code Annotated, § 8-8-201(34), does hereby express its intent to have the Claiborne County Sheriff's Department enforce its municipal ordinances.

TITLE 7

FIRE PROTECTION AND FIREWORKS[1]

CHAPTER
1. FIRE CODE.
2. VOLUNTEER FIRE DEPARTMENT.
3. FIRE SERVICE OUTSIDE CITY LIMITS.
4. FIREWORKS.
5. OPEN BURNING REGULATIONS.

CHAPTER 1

FIRE CODE

SECTION
7-101. Fire code adopted.
7-102. Available in recorder's office.
7-103. Enforcement.
7-104. Modifications.
7-105. Gasoline trucks.
7-106. Variances.
7-107. Violations and penalty.

7-101. 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 firefighters and emergency responders during emergency operations, the *International Fire Code*,[2] 2018 edition, as recommended by the International Code Council, is hereby adopted by reference and included as part of this code. Said international fire code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (2011 Code, § 7-101, modified)

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

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

7-102. 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. (2011 Code, § 7-102)

7-103. Enforcement. The *International 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. (2011 Code, § 7-103)

7-104. Modifications. The *International Fire Code* adopted in § 7-101 above is modified by deleting therefrom section 108, titled "Board of Appeals," in its entirety; § 7-106 below shall control appeals. (2011 Code, § 7-104)

7-105. 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. (2011 Code, § 7-105)

7-106. Variances. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the *International 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. (2011 Code, § 7-106)

7-107. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 7-107)

CHAPTER 2

VOLUNTEER FIRE DEPARTMENT[1]

SECTION

7-201. Establishment, equipment, and membership.
7-202. Funding; purchases.
7-203. Objectives.
7-204. Organization, rules, and regulations.
7-205. Records and reports.
7-206. Tenure and compensation of members.
7-207. Chief responsible for training and maintenance.
7-208. Chief to be assistant to state officer.

7-201. Establishment, equipment, and membership. There is hereby established a volunteer fire department to be supported and equipped from appropriations by the board of mayor and aldermen and from other contributions. All apparatus, equipment, and supplies of the fire department shall be purchased with the approval of the fire chief in accordance with municipal purchasing requirements and shall be and remain the property of the city. The fire department shall be composed of a chief appointed by the board of mayor and aldermen, and such number of subordinate officers and firefighters as appointed by the fire chief. The fire department shall consist of no more than fifty (50) volunteers in addition to the fire chief and all officers. (2011 Code, § 7-201)

7-202. Funding; purchases. The board of mayor and aldermen shall provide for the operations of the fire department in its annual budget. Any funds raised by or gifts given to the fire department, or by any individual or group of volunteer firefighters in the name of the volunteer fire department may be accepted by the board of mayor and aldermen. All equipment, materials, supplies, etc. purchased with contributed funds shall become the property of the City of Harrogate. The board of mayor and aldermen may reject any gift or contribution it deems not to be in the best interest of the City of Harrogate. (2011 Code, § 7-202)

7-203. 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;

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[1]Municipal code reference

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

(4) To extinguish uncontrolled fires;

(5) To prevent loss of life from asphyxiation or drowning;

(6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable;

(7) To provide emergency medical care at the highest level that the equipment and training of the personnel makes practicable;

(8) To serve as the emergency management agency of the city;

(9) To protect the health and safety of the citizens from hazardous materials to the extent possible that the level of equipment and training will allow; and

(10) To provide public fire education materials and information to the citizens in order that they may protect themselves from harm. (2011 Code, § 7-203)

7-204. Organization, rules, and regulations. The Chief of the City of Harrogate Volunteer Fire Department shall under the direction of the board of mayor and aldermen set up the organization of the department, make assignments to individuals, based on input, suggestions and recommendations from members of the volunteer fire department and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (2011 Code, § 7-204)

7-205. Records and reports. The Chief of the City of Harrogate Volunteer Fire Department shall prepare a report to be presented monthly to the meeting of the board of mayor and aldermen. The chief shall also prepare the annual departmental budget to be approved by the board of mayor and aldermen, keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit such reports to the mayor and board of aldermen as they require. (2011 Code, § 7-205)

7-206. Tenure and compensation of members. The Chief of the City of Harrogate Volunteer Fire Department shall have the authority to suspend any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor and board of aldermen. However, only the board of mayor and aldermen shall dismiss the fire chief.

All personnel of the Harrogate Volunteer Fire Department shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (2011 Code, § 7-206)

7-207. Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firefighters and for maintenance of all property and equipment of the volunteer fire department under the direction and subject to the requirements of the board

of mayor and aldermen. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (2011 Code, § 7-207)

7-208. Chief to be assistant to state officer. Pursuant to the requirements of *Tennessee Code Annotated*, § 68-102-108, the fire chief 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 commissioner in the execution of the provisions thereof. (2011 Code, § 7-208)

CHAPTER 3

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-301. Fire service outside city limits.

7-301. Fire service outside city limits. The board shall have full power and authority to authorize the use of the city's firefighting equipment and personnel outside the corporate limits to suppress and extinguish fires subject to such conditions and limitations of such action as the board may impose pursuant to the authority of:

(1) *Tennessee Code Annotated*, §§ 58-8-101, *et seq.*, the Mutual Aid and Emergency Disaster Assistance Agreement Act of 2004, which authorizes municipalities to respond to requests from other governmental entities affected by situations in which its resources are inadequate to handle. The act provides procedures and requirements for providing assistance. No separate mutual aid agreement is required unless assistance is provided to entities in other states, but a municipality may, by resolution, continue existing agreements or establish separate agreements to provide assistance. Assistance to entities in other states is still provided pursuant to *Tennessee Code Annotated*, §§ 12-9-101, *et seq*. "Assistance" is defined in the act as "the provision of personnel, equipment, facilities, services, supplies, and other resources to assist in firefighting, law enforcement, the provision of public works services, the provision of emergency medical care, the provision of civil defense services, or any other emergency assistance one governmental entity is able to provide to another in response to a request for assistance in a municipal, county, state, or federal state of emergency."

(2) *Tennessee Code Annotated*, §§ 12-9-101, *et seq.*, the Interlocal Cooperation Act, which authorizes municipalities and other governments to enter into mutual aid agreements of various kinds.

(3) *Tennessee Code Annotated*, § 6-54-601, which authorizes municipalities to:

(a) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide for firefighting service, and with industrial fire departments, to furnish one another with firefighting assistance.

(b) Enter into contracts with organizations of residents and property owners of unincorporated communities to provide such communities with firefighting assistance.

(c) Provide fire protection outside their city limits to either citizens on an individual contractual basis, or to citizens in an area

without individual contracts, whenever an agreement has first been entered into between the municipality providing the fire service and the county or counties in which the fire protection is to be provided. (Counties may compensate municipalities for the extension of fire services.) (2011 Code, § 7-301)

CHAPTER 4

FIREWORKS

SECTION

7-401. Scope of chapter.
7-402. Permits and fees.
7-403. Separate sales tax numbers required.
7-404. Enforcement.
7-405. Permit revocation.
7-406. Compliance with zoning ordinance and building codes.
7-407. Violations and penalty.

7-401. Scope of chapter. Any individual who sells or offers for sale fireworks from a permanent or temporary structure shall be subject to the provisions of this chapter. (2011 Code, § 7-401)

7-402. Permits and fees. (1) It is unlawful for any person to sell or offer for sale from a permanent or temporary structure any item of fireworks without first having secured a state fire marshal permit and a permit issued by the City of Harrogate. Permits will be issued by the City of Harrogate and enforced by the city's fire chief. Only DOT Class "C" common fireworks will be sold in the City of Harrogate.

(2) Permits are not transferable and must be renewed each year.

(3) No more than one (1) permit shall be issued per location per year.

(4) Permits to sell fireworks from a temporary structure to the general public are valid only from June 20 through July 5 and December 10 through January 2.

(5) The permit fee for retail sales of fireworks to the public, whether annual or temporary, is five hundred dollars ($500.00) per year.

(6) A permit to sell fireworks in the City of Harrogate must be obtained at least thirty (30) days prior to the date on which the applicant begins making sales.

(7) Applicants must be able to demonstrate that the sales are reported to the State of Tennessee using City of Harrogate Situs Code 1304.

(8) Each application must include the following:

(a) The application must include the name, address, and telephone number of the applicant. The applicant must be the owner of the business on the property, or have a contractual agreement with the owner of the business on the property. If a contractual agreement is in effect, whether verbal or written, the business owner on the property must provide a statement that the agreement exists. The applicant's name must be the same as the name on the state fire marshal permit.

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

(b) A copy of the state fire marshal permit. (For a state permit to be obtained by a retailer, the city recorder or mayor must sign on behalf of the retailer an application for fireworks permit that the state requires before a state permit is issued to a retailer for a specific location.)

(c) A person that applies for a retail fireworks permit must show proof that a state sales tax number has been obtained for sales tax purposes.

(d) A permit for the sale of fireworks will not be issued unless the applicant has provided a current certificate of insurance with a minimum aggregate of two million dollars ($2,000,000.00) liability insurance with the City of Harrogate named as an additional insured on the insurance policy.

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

(9) Each permit will be valid for one (1) permanent and/or one (1) temporary structure per location. (2011 Code, § 7-402)

7-403. Separate sales tax numbers required. A separate sales tax number is required for each location where consumer fireworks are to be sold. Only one (1) permanent and/or temporary structure will be permitted per location. (2011 Code, § 7-403)

7-404. Enforcement. The city's fire chief is hereby designated as the enforcement official for this chapter. (2011 Code, § 7-404)

7-405. Permit revocation. The fire chief may revoke any permit upon failure of a retailer to correct any of the following conditions within twenty-four (24) hours after the fire chief or codes official gives written notice.

(1) When the permittee or the permittee's operator violates any lawful rule, regulation, or order of the city's fire chief or codes official.

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

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

(4) When the permittee or the permittee's operator violates any fireworks ordinance or statute.

When any activities of the permittee constitute a distinct hazard to life or property, the fire official may revoke the permit immediately. (2011 Code, § 7-405)

7-406. Compliance with zoning ordinance and building codes. Only tents meeting the most current adopted fire codes of the City of Harrogate may be used for the temporary retail sale of fireworks. Any permanent or temporary structure from which fireworks are sold must meet all requirements of the City of Harrogate's zoning ordinance. (2011 Code, § 7-406)

7-407. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 7-407)

CHAPTER 5

OPEN BURNING REGULATIONS

SECTION
7-501. Generally.
7-502. Violations and penalty.

7-501. Generally. It is illegal to open burn any trash, wood scraps, brush, limbs and other materials or debris upon property within the city that was not produced by the land upon which it is burned or substantially used on the property prior to its being burned. (Ord. #131, Jan. 2021)

7-502. Violations and penalty. Violations of this chapter shall be subject to a fine of fifty dollars ($50.00) per day of violation and up to five hundred dollars ($500.00) in remedial fines. (Ord. #131, Jan. 2021)

TITLE 8

ALCOHOLIC BEVERAGES[1]

CHAPTER
1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION
8-101. Prohibited generally.
8-102. Consumption of alcoholic beverages on premises.
8-103. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
8-104. Annual privilege tax to be paid to the city recorder.
8-105. Concurrent sales of liquor by the drink and beer.
8-106. Advertisement of alcoholic beverages.
8-107. Violations and penalty.

8-101. Prohibited generally. Except as authorized by applicable laws and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for, any intoxicating liquor within the city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101. (Ord. #117, Sept. 2018)

8-102. Consumption of alcoholic beverages on premises. Notwithstanding § 8-101 of this chapter, facilities with specific statutory authority to sell intoxicating liquor to be consumed on the premises or within the boundaries of such location shall be authorized to sell or serve alcoholic beverages on the premises of such facility as permitted by *Tennessee Code Annotated*, § 57-4-102. *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 code when such sales are conducted within the corporate limits of Harrogate, Tennessee. It is the intent of the board of mayor and aldermen that the *Tennessee Code Annotated*, title 57,

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[1]State law reference
Tennessee Code Annotated, title 57.

chapter 4, inclusive, shall be effective in Harrogate, Tennessee, the same as if the code sections were copied herein verbatim. (Ord. #117, Sept. 2018)

8-103. **Privilege tax on retail sale of alcoholic beverages for consumption on the premises**. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, § 57-4-301,) for the City of Harrogate 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 Harrogate alcoholic beverages for consumption on the premises where sold. (Ord. #117, Sept. 2018)

8-104. **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 Harrogate shall remit annually to the city recorder the appropriate tax described in § 8-103. Such payments shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (Ord. #117, Sept. 2018)

8-105. **Concurrent sales of liquor by the drink and beer**. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the City of Harrogate, pursuant to *Tennessee Code Annotated,* title 57, chapter 4, shall, notwithstanding the provisions of § 8-212 of the ordinances of the City of Harrogate, qualify to receive a beer permit from the city. (Ord. #117, Sept. 2018)

8-106. **Advertisement of alcoholic beverages**. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the rules and regulations of the Tennessee Alcoholic Beverage Commission. (Ord. #117, Sept. 2018)

8-107. **Violations and penalty**. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the city judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission. (Ord. #117, Sept. 2018)

CHAPTER 2

BEER[1]

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. Limitation on number of permits.
8-211. Interference with public health, safety, and morals prohibited.
8-212. Issuance of permits to persons convicted of certain crimes prohibited.
8-213. Prohibited conduct or activities by beer permit holders.
8-214. Revocation or suspension of beer permits.
8-215. Civil penalty in lieu of revocation or suspension.
8-216. Loss of clerk's certification for sale to minor.
8-217. Violations and penalty.

8-201. Beer board established. There is hereby established a beer board to be composed of one (1) alderman and two (2) citizens. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without additional compensation. (2011 Code, § 8-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman; provided he gives a reasonable notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (2011 Code, § 8-202)

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

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

record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (2011 Code, § 8-203)

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. (2011 Code, § 8-204)

8-205. Powers and duties of the beer board. The beer board shall have the power and it is hereby directed to regulate the selling, storing for sale, distributing for sale, and manufacturing of beer within this municipality in accordance with the provisions of this chapter. (2011 Code, § 8-205)

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. 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 Harrogate. 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. (2011 Code, § 8-207)

8-208.[1] **Privilege tax**. 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 Harrogate, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax

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

on a prorated basis for each month or portion thereof remaining until the next tax payment date.

8-209. <u>Beer permits shall be restrictive</u>. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for the retail sale of beer may be further restricted by the beer board so as to authorize sales only for off-premises consumption. A single permit may be issued for on-premises and off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions in his permit by the beer board. (2011 Code, § 8-209)

8-210. <u>Limitation on number of permits</u>. The number of licenses for the sale of beer shall be limited to two (2) per each one thousand (1,000) people residing within the city limits as of the most recent official federal census. 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 the ordinance comprising 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. (2011 Code, § 8-210)

8-211. <u>Interference with public health, safety, and morals prohibited</u>. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer within three hundred feet (300') of any school, residence, church or other such place of public gathering, as measured from the structure where the beer will be stored, sold or manufactured to the structure of the school, residence, church or other place of public gathering. No permit shall be suspended, revoked or denied on the basis of proximity of the establishment to a school, residence, church 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. (Ord. #129, Sept. 2020)

8-212. <u>Issuance of permits to persons convicted of certain crimes prohibited</u>. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.

No person, firm, corporation, joint-stock company, syndicate, or association having at least a five percent (5%) ownership interest in the applicant shall have been convicted of any violation of the laws against possession, sale, manufacture, or transportation of beer or other alcoholic beverages or any crime involving moral turpitude within the past ten (10) years. (2011 Code, § 8-212)

8-213. Prohibited conduct or activities by beer permit holders. It shall be unlawful for any beer permit holder to:

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

(2) Employ any minor under eighteen (18) years of age in the sale, storage, distribution, or manufacture of beer.

(3) Make or allow any sale of beer between the hours of 12:00 midnight and 8:00 A.M. on weekdays (Monday through Saturday), or between the hours of 12:00 midnight and 1:00 P.M. on Sundays or after 10:00 P.M. on Sundays.

(4) Make or allow any sale of beer to a minor under twenty-one (21) years of age.

(5) Allow any minor under twenty-one (21) years of age to loiter in or about his place of business.

(6) Allow drunk persons to loiter about his premises.

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

(8) Allow illegal gambling on his premises.

(9) Allow pool or billiard playing in the same room where beer is sold and/or consumed.

(10) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #97, July 2015, modified)

8-214. Revocation or suspension of beer permits. (1) 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.

(2) 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. (2011 Code, § 8-214)

8-215. 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. 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.

(3) 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.

(4) 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.

(5) Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (2011 Code, § 8-215)

8-216. Loss of clerk's certification for sale to minor. If the beer board determines that a clerk of an off-premises beer permit holder certified under *Tennessee Code Annotated*, § 57-5-606, sold beer to a minor, the beer board shall report the name of the clerk to the alcoholic beverage commission within fifteen (15) days of determination of the sale. The certification of the clerk shall be invalid and the clerk may not reapply for a new certificate for a period of one (1) year from the date of the beer board's determination. (2011 Code, § 8-216)

8-217. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 8-217)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.[1]

CHAPTER
1. MISCELLANEOUS.
2. ADULT-ORIENTED ESTABLISHMENTS.
3. MASSAGE PARLORS.
4. CABLE TELEVISION.

CHAPTER 1

MISCELLANEOUS

SECTION
9-101. Solicitation roadblocks.

9-101. Solicitation roadblocks. (1) Solicitation road blocks are restricted to such organizations that meet and are located within the municipal limits of the City of Harrogate, Tennessee, and are duly filed with the IRS as subchapter 501(c)(3) organizations.

(2) The following terms shall apply in the interpretation and application of this chapter.

(a) "Solicitation roadblock" means the solicitation by any person of money on or in the right-of-way of any street, road, highway, or any other public way and place generally open to, and used by, the public for travel in or upon motor vehicles.

(b) "Street," "road," "highway," and "public way and place" means the paved or unpaved surface of any such street, road, highway or public place, the entire width of the public right-of-way extending laterally therefrom, dividers, medians, and abutting or adjoining sidewalks or other pedestrian pathways generally open to the public for pedestrian traffic.

(3) For permission to conduct a solicitation roadblock within the City of Harrogate, the following conditions must be met:

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[1]Municipal code references
Building, plumbing, wiring and residential regulations: title 12.
Junkyards: title 13.
Liquor and beer regulations: title 8.
Noise reductions: title 11.
Zoning: title 14.

(a) Request made at city hall a minimum of ten (10) days prior to roadblock. Permits will be granted on a first-to-apply basis.

(b) Safety plan issued to city's fire chief.

(c) Submit copy of organization's 501(c)(3) from IRS.

(d) Sign hold harmless agreement with the city and provide proof of liability insurance coverage that meets current minimum requirements.

(e) In the event of an incident/accident, a report must be filed by responsible party of the organization requesting permit for solicitation.

(f) All roadblock workers must be at least eighteen (18) years of age and must wear highly visible clothing which must include an ANSI approved safety vest.

(g) All organizations conducting a roadblock must place a proper form of notification at each roadblock location to warn motorist of "Roadblock Ahead," and provide a flyer to each contributor.

(h) All organizations conducting a roadblock must remove all signs upon the completion of the roadblock.

(4) Any person violating this chapter shall be subject to a fifty dollar ($50.00) fine for each violation. (2011 Code, § 9-101)

CHAPTER 2

ADULT-ORIENTED ESTABLISHMENTS

SECTION

9-201. Definitions.
9-202. License required.
9-203. Application for license.
9-204. Standards for issuance of license.
9-205. Permit required.
9-206. Application for permit.
9-207. Standards for issuance of permit.
9-208. Fees.
9-209. Display of license or permit.
9-210. Renewal of license or permit.
9-211. Revocation of license or permit.
9-212. Hours of operation.
9-213. Responsibilities of the operator.
9-214. Prohibitions and unlawful sexual acts.
9-215. Location restrictions.
9-216. Violations and penalty.

9-201. 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 bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, films, video cassettes, compact discs, computer software, computer generated images or text, or magazines and other periodicals or publications or reproductions of any kind which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined below, and in conjunction therewith have facilities for the presentation of "adult entertainment," as defined below, and including adult-oriented films, movies, or live entertainment, for observation by patrons therein.

(2) "Adult cabaret" means 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 exposes 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.

(3) "Adult entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD ROM generated images, displays of adult-oriented images or performances derived or taken from the internet, displays or dance of any type, which has a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered to customers.

(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 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.

(6) "Adult-oriented establishment" means and include, but not be limited to, "adult bookstore," "adult motion picture theaters," "adult mini-motion picture establishments," or "adult cabaret," and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron or a member, when such adult entertainment is held, conducted, operated or maintained for a profit, direct or indirect. An "adult-oriented establishment" further includes, without being limited to, any "adult entertainment studio" or any premises that is physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(7) "Board of mayor and aldermen" means the Board of Mayor and Aldermen of the City of Harrogate, Tennessee.

(8) "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.

(9) "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.

(10) "Operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining an adult-oriented establishment.

(11) "Specified anatomical areas" means less than completely and opaquely covered:

(a) Human genitals, pubic region;

(b) Buttocks;

(c) Female breasts below a point immediately above the top of the areola; and

(d) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered.

(12) "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; and

(c) Fondling or erotic touching of human genitals, pubic region, buttock or female breasts. (2011 Code, § 9-201)

9-202. <u>License required</u>. (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 Harrogate without first obtaining a license to operate issued by the City of Harrogate.

(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. (2011 Code, § 9-202)

9-203. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city recorder of the City of Harrogate. The application shall be filed in triplicate with and dated by the city recorder.

(2) The application for a license shall be upon a form provided by the city recorder. 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 any 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 therefor, 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 the 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 Harrogate, 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 recorder 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 City of Harrogate, the city recorder 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 city recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city recorder 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 Claiborne County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he

or she is ineligible for such license and shall be grounds for denial thereof by the city recorder. (2011 Code, § 9-203)

9-204. 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 § 9-203 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-203 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 City of Harrogate has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city recorder no later than twenty (20) days after the date of the application. (2011 Code, § 9-204)

9-205. Permit required. In addition to the license requirements previously set forth for owners and operators of adult-oriented establishments, no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city recorder. (2011 Code, § 9-205)

9-206. Application for permit. (1) Any person desiring to secure a permit shall make application to the city recorder. The application shall be filed in triplicate with and dated by the city recorder.

(2) The application for a permit shall be upon a form provided by the city recorder. 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 the 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 Harrogate, 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 City of Harrogate, the city recorder shall notify the applicant that his application is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the city recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city recorder 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 city recorder. (2011 Code, § 9-206)

9-207. 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 City of Harrogate has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city recorder not later than twenty (20) days after the date of the application. (2011 Code, § 9-207)

9-208. 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. (2011 Code, § 9-208)

9-209. 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, the Claiborne County Sheriff's Department, or any person designated by the board of mayor and aldermen. (2011 Code, § 9-209)

9-210. Renewal of license or permit. (1) Every license issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance, unless sooner revoked, and must be renewed before operation is allowed in the following year. Any operator desiring to renew a license shall make application to the city recorder. The application for renewal must be filed not later than sixty (60) days before the license expires. The application for renewal shall be filed in triplicate with and dated by the city recorder. A copy of the application for renewal shall be distributed promptly by the city recorder and to the operator. The application for renewal shall be a form provided by the city recorder 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 City of Harrogate is aware of any information bearing on the operator's qualifications, that information shall be filed in writing with the city recorder.

(4) Every permit issued pursuant to this chapter will terminate at the expiration of one (1) year from the date of issuance unless sooner revoked, and must be renewed before an employee and/or entertainer is allowed to continue employment in an adult-oriented establishment in the following calendar year. Any employee and/or entertainer desiring to renew a permit shall make application to the city recorder. 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 city recorder. A copy of the application for renewal shall be distributed promptly by the city recorder and to the employee. The application for renewal shall be upon a form provided by the city recorder 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 that 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 City of Harrogate is aware of any information bearing on the employee's qualifications, that information shall be filed in writing with the city recorder. (2011 Code, § 9-210)

9-211. Revocation of license or permit. (1) The city recorder 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 board of mayor and aldermen 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 board of mayor and aldermen 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 provides 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 Claiborne County Health Department.

(j) Any operator fails to maintain the licensed premises in a clean, sanitary and safe condition.

(k) Any minor is found to be loitering about or frequenting the premises.

(2) The city recorder, 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. (2011 Code, § 9-211)

9-212. 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 City of Harrogate, the Claiborne County Sheriff's Department, or such other persons as the board of mayor and aldermen may designate. (2011 Code, § 9-212)

9-213. 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 the City of Harrogate upon demand 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 City of Harrogate 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 entirely.

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

(10) A sign shall be conspicuously displayed in the common area of the premises, and shall read as follows: "This Adult-Oriented Establishment is regulated by the City of Harrogate Municipal Ordinance. Entertainers are:

(a) Not permitted to engage in any type of sexual conduct;

(b) Not permitted to expose their sex organs;

(c) Not permitted to demand or collect all or any portion of a fee for entertainment before its completion." (2011 Code, § 9-213)

9-214. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, perform or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation, or other contact stimulation of the genitalia.

(2) No operator, entertainer, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(3) No operator, entertainer, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle his or her breasts, buttocks, anus or genitals of any other person.

(4) No operator, entertainer, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said operator, entertainer, or employee with

the intent to arouse or gratify the sexual desires of the operator, entertainer, employee or customer.

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least eighteen inches (18") above the immediate floor level and removed six feet (6') from the nearest entertainer, employee and/or customer. (2011 Code, § 9-214)

9-215. **Location restrictions**. Allowed in an Industrial Zoning District (M-I). (2011 Code, § 9-215)

9-216. **Violations and penalty**. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 9-216)

CHAPTER 3

MASSAGE PARLORS

SECTION

9-301. Definitions.
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9-301. Definitions. For the purposes of this chapter, the following phrases and words shall have the meaning assigned below, except in those instances where the context clearly indicates a different meaning.

(1) "Massage." The administering by any person by any method of exerting or applying pressure, friction, moisture, heat or cold to the human body, and/or the rubbing, stroking, kneading, pounding, tapping, or otherwise manipulating a part or the whole of the human body or the muscles or joints thereof, by any physical or mechanical means. "Massage" shall also mean the giving, receiving, or administering of a bath to any person, or the application of body paint or other colorant to any person.

(2) "Massage parlors." Any premises, place of business, or membership club where there is conducted the business or activity of furnishing, providing or giving for a fee, or any other form of consideration, a massage, bath, body painting, or similar massage service or procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a

duly licensed physician, surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barbershop or beauty salon operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck.

(3) "Massage technician." Any person who administers a massage to another at a massage parlor. (2011 Code, § 9-301)

9-302. Massage parlor permit required. It shall be unlawful for any person to establish, maintain or operate a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance. (2011 Code, § 9-302)

9-303. Permit application; renewals; fees. (1) Any person desiring a massage parlor permit to establish, maintain or operate a massage parlor in the city shall make application to the city manager. Each massage parlor permit application shall be accompanied by an investigation fee of one hundred dollars ($100.00), payable to the city recorder. Each massage parlor permit shall expire one (1) year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of fifty dollars ($50.00). Each such application shall contain the name, address and telephone number of the place where the applicant proposes to operate, maintain or establish a massage parlor in the city.

(2) In addition, such application shall include a sworn statement as to whether or not the applicant (if the applicant is a partnership or association, any partner or member thereof, or if the applicant is a corporation, any officer, director or manager thereof, or any shareholder) has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in any other jurisdiction.

(3) The application shall state thereon that: "It is unlawful for any person to make a false statement on this application, and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit."

(4) Each applicant shall have his fingerprints taken, which fingerprints shall constitute part of the application.

(5) A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall be not less than two inches by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filled with the application. (2011 Code, § 9-303)

9-304. Investigation of permit applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in this chapter, the recorder shall make or cause to be made a thorough investigation

of the criminal record of the applicant (if the applicant is a partnership or association, all partners or members thereof, or if the applicant is a corporation, all officers, directors and managers thereof, and all shareholders). The result of this investigation shall be submitted by the city recorder within thirty (30) days of the request.

(2) The city recorder shall deny any application for a massage parlor permit under this chapter after notice and hearing if the city recorder finds that the applicant (if the applicant is a partnership, association or limited liability entity, any partner or member thereof, or if the applicant is a corporation, any officer, director or manager thereof, or shareholder) has within a period of two (2) years prior to application been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city recorder for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2011 Code, § 9-304)

9-305. Same investigation of premises and issuance of permit. The city recorder, before issuing any massage parlor permit, shall cause an investigation to be made of the premises named and described in the application for a massage parlor permit under this chapter for the purpose of determining whether the massage parlor complies with the provisions of this chapter, the zoning ordinances, all building, fire, plumbing and electrical codes, and, for this purpose, a copy of the application shall immediately be referred to the building officials to make or cause to be made a thorough investigation of the premises and the result of this investigation, and whether such premises comply with the zoning, building, fire, plumbing and electrical codes, shall be submitted to the city recorder within thirty (30) days of the request. (2011 Code, § 9-305)

9-306. Display of permit. Every person to whom a massage parlor permit shall have been granted shall display such massage parlor permit in a conspicuous place in the massage parlor or establishment so that it may be readily seen by persons entering the premises. (2011 Code, § 9-306)

9-307. Permit revocation; grounds; notice to permittee. (1) Power generally. The city recorder shall have the power to revoke or suspend for any period of time up to two (2) years, and shall be charged with the duty of revoking or suspending, any massage parlor permit after notice to the permittee and hearing upon any grounds set forth in this section.

(2) Grounds. The following shall be deemed good and sufficient grounds for revocation or suspension of massage parlor permit:

(a) Upon evidence presented that the permittee (if the permittee is a partnership or association, any partner or member thereof, or if the permittee is a corporation, any officer, director, or manager thereof, or shareholder, or if the permittee is a limited liability entity, any member or manager thereof) has within a period of two (2) years been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provisions of this chapter on a charge of violating a similar law or ordinance of this or any other jurisdiction.

(b) Discovery by the city recorder of a false statement on the application.

(c) Upon evidence presented before the city recorder that the permittee (if the permittee is a partnership or association, any partner or member thereof; or if the permittee is a corporation, any officer, director or manager thereof, or shareholder, or if the permittee is a limited liability entity, any member or manager thereof) has within a period of one (1) year violated any provisions of this chapter or any other ordinance of this city or any city of this state or laws of the state relating to sexual offenses, prostitution, obscenity, or other similar offenses.

(d) Upon evidence presented before the city recorder establishing that within a period of one (1) year any massage technician or other agent or person under the control or supervision of the permittee has violated any provisions of this chapter or violated any other ordinance of the city laws of the state relating to sexual offenses, prostitution, obscenity or similar offenses.

(3) Notice of hearing. Notice of hearing before the city recorder for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2011 Code, § 9-307)

9-308. Technician permit required. It shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid permit issued pursuant to this chapter or any prior ordinance. (2011 Code, § 9-308)

9-309. Permit application; renewal; fees. (1) Any person desiring a permit to perform the services of a massage technician at a massage parlor in the city shall make application in triplicate form to the city recorder. Each such application shall state under oath the name, address, telephone number, last previous address, date of birth, place of birth, height, weight, and current and last previous employment of the applicant. In addition, such application shall

state whether or not the applicant has been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in any other jurisdiction.

(2) The application shall state thereon that: "It is unlawful for any person to make a false statement on this application, and discovery of a false statement shall constitute grounds for denial of an application or revocation of a permit."

(3) Each applicant shall have his or her fingerprints taken, which fingerprints shall constitute part of the application.

(4) A photograph of the applicant taken within sixty (60) days immediately prior to the date of application, which picture shall not be less than two inches by two inches (2" x 2") showing the head and shoulders of the applicant in a clear and distinguishable manner, shall be filed with the application.

(5) Each massage technician permit shall expire one (1) year from the date of issuance. Each renewal application shall be accompanied by an investigation fee of fifty dollars ($50.00). (2011 Code, § 9-309)

9-310. Investigation of technician permit applicant; grounds for denial of application. (1) Upon receipt of the application and fee as provided for in this chapter, the city recorder shall make or cause to be made a thorough investigation of the criminal record of the applicant.

(2) The city recorder shall deny any application for a massage technician permit under this chapter after notice and hearing, if the city recorder finds that the applicant has, within a period of two (2) years prior to his application, been convicted, pleaded nolo contendere, or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. The making of a false statement on the application shall also be grounds for denial of this application. Notice of the hearing before the city recorder for denial of this application shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2011 Code, § 9-310)

9-311. Display of technician permit. Every person to whom a massage technician permit shall have been granted shall, while in a massage parlor, carry on his or her person or display in a conspicuous place in the massage parlor or establishment, such massage technician permit. (2011 Code, § 9-311)

9-312. Technician permit revocation; grounds; notice to permittee. Any massage technician permit granted under this chapter shall be

revoked by the city recorder after notice and hearing if the permittee has, within a period of two (2) years, been convicted, pleaded nolo contendere or suffered a forfeiture on a charge of violating any law relating to sexual offenses, prostitution, obscenity, etc., or any provision of this chapter, or on a charge of violating a similar law or ordinance in this or any other jurisdiction. Discovery of a false statement on the application shall also be grounds for revocation of the permit. Notice of the hearing before the city recorder for revocation of the permit shall be given in writing, setting forth the grounds of the complaint and the time and place of hearing. Such notice shall be mailed by certified mail to the applicant's last known address at least five (5) days prior to the date set for hearing. (2011 Code, § 9-312)

9-313. Suspension of permits; reinstatement. If the city recorder or his duly authorized representatives find that a massage parlor or a massage technician is not in compliance with the requirements set forth in this chapter, or the permittee has refused, the city recorder or his duly authorized representatives have the right to enter the premises to enforce the provisions of this chapter, upon report to the city recorder he may enter any order for the immediate suspension of the massage parlor permit or massage technician permit, as the case may be, until such time as he finds that the reason for such suspension no longer exists. A copy of the order shall be sent to the massage parlor and/or the massage technician at his or her place of business by certified mail, which order shall set forth the reasons for such suspension. No person shall operate a massage parlor or perform the services of a massage technician at a massage parlor when subject to an order of suspension. The city recorder shall reinstate a suspended permit when he has been satisfied that the massage parlor or massage technician complies with the applicable provisions of this chapter. (2011 Code, § 9-313)

9-314. Appeals from permit denials, suspensions or revocations. Any applicant or permittee aggrieved by the actions of the city recorder in the denial of an application for a massage parlor permit or massage technician permit, or by the decision of the city recorder with reference to the revocation or suspension of a massage establishment permit or massage technician permit, shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the city recorder, within ten (10) days after the action complained of has been taken, a written statement setting forth fully the grounds for appeal. The city recorder shall forthwith notify the board of mayor and aldermen, which shall schedule a public hearing and shall give notice of such hearing to the appellant. The board of mayor and aldermen may reverse or affirm or may modify any decision of the city recorder, and may make such decisions or impose such conditions as the facts may warrant; and it may order that a permit be granted, suspended or revoked. The decision and order of the

board of mayor and aldermen on such appeal shall be final and conclusive. (2011 Code, § 9-314, modified)

9-315. Public health card required for a massage technician. It shall be unlawful for any person to perform the services of massage technician at a massage parlor in the city without a valid public health card issued pursuant to this chapter or any prior ordinance. (2011 Code, § 9-315)

9-316. Examination of massage techniques; issuance of public health card. (1) All persons who desire to perform the services of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases, which shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest x-ray which is to be made and interpreted by a trained radiologist, and shall furnish a certificate based upon and issued within thirty (30) days of such examination by the Claiborne County Health Department and stating that the person examined is either free from any contagious or communicable disease or incapable of communicating any of such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the city recorder the certificate required herein within five (5) days of the commencement of their employment and at least once every six (6) months thereafter.

(2) When there is cause to believe that the massage technician is capable of communicating any contagious disease to others, the city recorder may at any time require an immediate physical examination of any such person.

(3) The employer of any such person shall require all such persons to undergo the examination and obtain the certificate provided by this section, shall register at the place of employment the name and date of employment of each employee, and shall have the health cards and registration of all employees available for the chief of police or the city recorder, or their duly authorized representative, at all reasonable times. (2011 Code, § 9-316)

9-317. Right of entry. The mayor or city recorder, or their duly authorized representatives, are hereby authorized to enter, examine and survey any premises in the city for which a massage parlor permit has been issued pursuant to this chapter to enforce the provisions of this chapter, and for no other purpose. Should the authority to inspect premises be delegated to another person, such person shall be provided with written delegation of authority to be shown to the permittee upon request at the time of inspection. If such inspection reveals conditions which in the opinion of the inspector warrants a more thorough inspection by the building official, the Claiborne County Health Department, the bureau of fire prevention, or similar person or agency charged with responsibility for the enforcement of particular health and safety ordinances or laws of the city or the state, he shall report such condition to such person or agency and request that such premises be examined and any findings

be reported to the chief of police and the city recorder. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law enforcement of health and safety or criminal laws wherein such right of entry is vested by other ordinances or laws. (2011 Code, § 9-317)

9-318. Minimum standards for parlors. No massage parlor shall be operated, established or maintained in the city that does not comply with the following minimum standards:

(1) The premises shall have adequate equipment for disinfecting and sterilizing nondisposable instruments and materials used in administering massages. Such nondisposable instrument and materials shall be disinfected after use on each patron.

(2) Closed cabinets shall be provided and used for the storage of clean linens, towels and other materials used in connection with administering massages. All soiled linens, towels and other materials shall be kept in properly covered containers or cabinets, which containers or cabinets shall be kept separate from the clean storage areas.

(3) Clean linen and towels shall be provided for each massage patron. No common use of towels or linens shall be permitted.

(4) All massage tables, bathtubs, shower stalls, steam or bath areas and floors shall have surfaces which may be readily disinfected.

(5) Oils, creams, lotions or other preparations used in administering massages shall be kept in clean, closed containers or cabinets.

(6) Adequate bathing, dressing, locker and toilet facilities shall be provided for the patrons to be served at any given time. Separate bathing, dressing, locker and toilet facilities shall be provided for male and female patrons.

(7) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms and all other physical facilities shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use. When carpeting is used on the floors, it shall be kept dry.

(8) The premises shall be equipped with a service sink for custodial services.

(9) Eating in the massage work areas shall not be permitted.

(10) Animals, except for service animals, shall not be permitted in the massage work areas.

(11) No massage parlor shall employ a massage technician who does not comply with the provisions of this chapter. (2011 Code, § 9-318)

9-319. Individual health requirements for technicians. No massage technician shall administer a massage at a massage parlor who does not comply with the following individual health requirements:

(1) No massage technician shall administer a massage if such massage technicians knows or should know that he or she is not free of any contagious or communicable disease.

(2) No massage technician shall administer a massage to a patron exhibiting any skin fungus, skin infection, skin inflammation, or skin eruption; provided that a physician duly licensed by the state may certify that such person may be safely massaged, and prescribing the conditions thereof.

(3) Each massage technician shall wash his or her hands in hot running water, using a proper soap or disinfectant before administering a massage to each person. (2011 Code, § 9-319)

9-320. Unlawful acts. (1) It shall be unlawful for any person in a massage parlor to place his or her hand or hands upon or to touch with any part of his or her body, or to fondle in any manner, or to massage, a sexual or genital part of any other person.

(2) It shall be unlawful for any person in a massage parlor to expose his or her sexual or genitals parts, or any portion thereof, to any other person of the opposite sex.

(3) It shall be unlawful for any person while in the presence of any other person of the opposite sex in a massage parlor to fail to conceal with a fully opaque covering the sexual organs or genital parts of his or her body.

(4) It shall be unlawful for any person owning, operating or managing a parlor knowingly to cause, allow or permit in or about such massage parlor any agent, employee, or any other person under his control or supervision to perform such acts prohibited in this chapter.

(5) Sexual or genital parts shall include the genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breast of a female.

(6) Every person owning, operating or managing a massage parlor shall post a copy of this chapter in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises.

(7) It shall be unlawful for any massage parlor to provide massage services at any time between the hours of 9:00 P.M. to 7:00 A.M. and on Sundays; however, it shall be lawful for such establishments to remain open for the transaction of other lawful business.

(8) The administering of a massage shall not be conducted in private rooms or areas, but shall be conducted in separate general areas for males and females, or if the same general area is used by both male and female customers, then different times for such separate use shall be designated and posted.

(9) It shall be unlawful for any person in a massage parlor to administer a massage to a person of the opposite sex. (2011 Code, § 9-320, modified)

9-321. Alcoholic beverages. No beer or alcoholic beverages may be sold, served or consumed upon any premises holding a license as provided for in this chapter. (2011 Code, § 9-321)

9-322. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 9-322)

CHAPTER 4

CABLE TELEVISION

SECTION
9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television shall be furnished to the City of Harrogate and its inhabitants under franchise granted to James Cable, LLC, d/b/a Communicon Services, by the Board of Mayor and Aldermen of the City of Harrogate, Tennessee. The rights, powers, duties and obligations of the City of Harrogate and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon, the parties concerned.[1] (2011 Code, § 9-401, modified)

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[1]For complete details relating to the cable television franchise agreement see ordinance no. 83 dated May 23, 2011 in the office of the city recorder.

TITLE 10

ANIMAL CONTROL[1]

CHAPTER
1. IN GENERAL.

CHAPTER 1

IN GENERAL

SECTION
10-101. Definitions.
10-102. Running at large prohibited.
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. Inspection of premises.
10-107. Seizure and disposition of animals.
10-108. Violations and penalty.

10-101. Definitions. The following definition of "public nuisance" shall apply in the interpretation and enforcement of this chapter. An animal becomes a public nuisance if one (1) or more of the following conditions apply:

(1) Is repeatedly found at large;
(2) Damages the property of anyone other than its owner;
(3) Molests or intimidates pedestrians or passersby;
(4) Chases vehicles; and/or
(5) Attacks other animals. (2011 Code, § 10-101)

10-102. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large or to be a public nuisance may be prosecuted under this chapter, even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner. (2011 Code, § 10-102)

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[1]Wherever this title mentions dogs it pertains to dog and cats.

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 and not to become a nuisance. (2011 Code, § 10-103)

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 and safety. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle in a manner that will not create a public nuisance. (2011 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 public nuisance because of either noise, odor, contagious disease, or other reason. (2011 Code, § 10-105)

10-106. Inspection of premises. The city hereby designates the building codes officer the authority and power to enter any premises at any reasonable hour of the day for the purpose of making inspections. When violations are discovered, he has the authority to issue such orders as he deems necessary to correct the public nuisance conditions within a reasonable time. It shall be unlawful for any person to fail to comply with such order. (2011 Code, § 10-107)

10-107. 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 a pound provided or designated by the board of mayor and aldermen. If the owner is known, he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case, the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

The pound keeper shall collect from each person claiming an impounded animal or fowl reasonable fees, in accordance with a schedule approved by the board of mayor and aldermen, to cover the costs of impoundment and maintenance. (2011 Code, § 10-108)

10-108. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty

provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 10-109)

TITLE 11

MUNICIPAL OFFENSES[1]

CHAPTER
1. ALCOHOL.
2. OFFENSES AGAINST THE PEACE AND QUIET.
3. TRESPASSING AND INTERFERENCE WITH TRAFFIC.

CHAPTER 1

ALCOHOL[2]

SECTION
11-101. Drinking alcoholic beverages in public, etc.
11-102. Minors in beer places.
11-103. Violations and penalty.

11-101. Drinking alcoholic beverages in public, etc. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place. (2011 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.

11-103. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 11-102)

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[1]Municipal code references
Animals and fowls: title 10.
Fireworks and explosives: title 7.
Residential and utilities: title 12.
Streets and sidewalks (non-traffic): title 16.
Traffic offenses: title 15.

[2]Municipal code reference
Sale of alcoholic beverages, including beer: title 8.

CHAPTER 2

OFFENSES AGAINST THE PEACE AND QUIET

SECTION
11-201. Disturbing the peace.
11-202. Anti-noise regulations.
11-203. Violations and penalty.

11-201. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (2011 Code, § 11-201)

11-202. 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 under the following parameters. In residentially and commercially zoned areas, as defined under title 14 of this code, excess of the following decibel limits is prohibited:

	Time of Day	
Zoning	7:00 A.M. - 9:59 P.M.	10:00 P.M. - 6:59 A.M.
Residential	45 db (A)	40 db (A)
Commercial	55 db (A)	45 db (A)

Decibel recordings are made with an American National Standards Institute Type II approved device at the approximate location of the property line or the boundary of the public way, at a height of at least four feet (4') above the immediate surrounding surface.

(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) 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, 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.

(b) Yelling, shouting, hooting, etc. Yelling, shouting, whistling, or singing on the public streets, 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.

(c) 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.

(d) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.

(e) Blowing whistles. The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper municipal authorities.

(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, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 10:00 P.M. and 6:59 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 10:00 P.M. and 6:59 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 town while engaged upon necessary public business.

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

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

However, no such use shall be made until a permit therefor is secured from the recorder and treasurer. 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. (2011 Code, § 11-202, modified)

11-203. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 11-203)

CHAPTER 3

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

11-301. Trespassing.
11-302. Violations and penalty.

11-301. 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] (2011 Code, § 11-301)

11-302. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 11-303)

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[1]Municipal code reference
Solicitation roadblocks: § 9-101.

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER
1. BUILDING CODES.

CHAPTER 1

BUILDING CODES[1]

SECTION
12-101. Codes adopted.
12-102. Modifications.
12-103. Permit fees.
12-104. Available in recorder's office.
12-105. Board of appeals.
12-106. Violations and penalty.

12-101. Codes adopted.[2] The following codes are the codes to be used by the codes official:

(1) 2018 *International Building Code (IBC)*;

(2) 2018 *International Residential Code for One- And Two-Family Dwellings (IRC)*; however amending this code by eliminating the fire sprinkler requirements for one (1) and two (2) single family dwellings, or in townhomes that have a two (2) hour fire resistance rated wall in between units, eliminate the chapter on electrical requirements, and eliminate Chapter 11;

(3) 2018 *International Plumbing Code (IPC)*;

(4) 2018 *International Mechanical Code (IMC)*;

(5) 2018 *International Fire Code (IFC);*

(6) 2018 *International Property Maintenance Code (IPMC)*;

(7) 2018 *International Existing Building Code (IEBC)*;

(8) 2018 *International Fuel Gas Code (IFGC)*; and

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[1]Municipal code references
Fire code: title 7, chapter 1.
Fire protection and fireworks: title 7.
Planning and zoning: title 14.
Streets and other public ways and places: title 16.
Utilities and services: title 18 and 19.

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

(9) 2018 *International Energy Conservation Code (IECC)*; however amending this code by eliminating the blower door test requirements, the duct testing requirements and the floor insulation requirements. (Ord. #96, May 2015, and amended by Ord. #104, Feb. 2017)

12-102. Modifications. Whenever the code refers to the "Chief Appointing Authority" or the "Chief Administrator" it shall be deemed to be a reference to the board of mayor and aldermen. When the "Building Official" or "Director of Public Works" is named it shall, for the purposes of the building code, mean such person as the board of mayor and aldermen has appointed or designated to administer and enforce the provisions of the building code. (2011 Code, § 12-102)

12-103. Permit fees. The schedule of building permit fees shall be as follows based on total valuation of construction:

(1) Fifteen dollars ($15.00) first one thousand dollars ($1,000.00);

(2) Two dollars and fifty cents ($2.50) each additional one thousand dollars ($1,000.00) up to fifty thousand dollars ($50,000.00);

(3) Two dollars ($2.00) each additional one thousand dollars ($1,000.00) up to one hundred thousand dollars ($100,000.00);

(4) One dollar and fifty cents ($1.50) each additional one thousand dollars ($1,000.00) up to five hundred thousand dollars ($500,000.00);

(5) One dollar ($1.00) each additional one thousand dollars ($1,000.00) thereafter; and

(6) Single mobile homes to be parked in designated mobile home parks will be charged a twenty-five dollar ($25.00) parking fee.

Permitted signs to be placed on buildings will have a fifty dollar ($50.00) flat fee. Permitted free standing signs will be based on the construction cost and charged at the same rates as building permit fees, the total fee not to be less than fifty dollars ($50.00) per sign.

Permit fees for temporary structures will be twenty-five dollars ($25.00), excluding any city-sponsored events. (2011 Code, § 12-103)

12-104. Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the building codes have been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (2011 Code, § 12-104)

12-105. Board of appeals. The board of mayor and aldermen shall serve as the board of appeals. (2011 Code, § 12-106)

12-106. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty

provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 12-105)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS[1]

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.
13-107. Violations and penalty.

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. (2011 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. (2011 Code, § 13-102)

13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds

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[1]Municipal code references
Animal control: title 10.
International property maintenance code: title 12.
Littering generally: title 11.
Littering streets, etc.: § 16-107.
Wastewater treatment: title 18, chapter 2.

on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder to cut such vegetation when it has reached a height of over one foot (1'). (2011 Code, § 13-103)

13-104. <u>Overgrown and dirty lots</u>. (1) <u>Prohibition</u>. 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) <u>Designation of public officer or department</u>. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.

(3) <u>Notice to property owner</u>. It shall be the duty of the department or person designated by the board of mayor and aldermen 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 registered or certified United States mail, addressed to the last known address of the owner of record. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:

(a) A brief statement that the owner is in violation of § 13-104 of the Harrogate 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) <u>Clean-up at property owner's expense</u>. 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 Claiborne County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes.

(5) 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 in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality 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 (4) for these charges.

(6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of 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 subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.

(7) Judicial review. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.

(8) Supplemental nature of this section. The provisions 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, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law. (2011 Code, § 13-104)

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 city recorder and dispose of such animal in such manner as the city recorder shall direct. (2011 Code, § 13-105)

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. (2011 Code, § 13-106)

13-107. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 13-107)

CHAPTER 2

SLUM CLEARANCE[1]

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 salvaged 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. (2011 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" means the board of mayor and aldermen charged with governing the city.

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

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

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[1]State law reference
Tennessee Code Annotated, title 13, chapter 21.

(5) "Parties in interest" means 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" means 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. (2011 Code, § 13-202)

13-203. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the building inspector of the city, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the building inspector. (2011 Code, § 13-203)

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. (2011 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. (2011 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." (2011 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. (2011 Code, § 13-207)

13-208. Lien for expenses; sale of salvaged 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, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, 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 as set forth in *Tennessee Code Annotated*, §§ 67-5-2010 and 67-5-2410. 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, the public officer 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 Claiborne County 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 Harrogate to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (2011 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 Harrogate. 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 uncleanliness. (2011 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 Claiborne County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (2011 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 non-compliance by such person with any order of the public officer. (2011 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. (2011 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. (2011 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.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (2011 Code, § 13-214)

CHAPTER 3

JUNKYARDS

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.
13-309. Violations and penalty.

13-301. Definitions. (1) "Junk" means 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" means 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. (2011 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. (2011 Code, § 13-302)

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.

(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. (2011 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. (2011 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 ensure 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. (2011 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. (2011 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. (2011 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. (2011 Code, § 13-308)

13-309. **Violations and penalty**. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 13-309)

CHAPTER 4

JUNKED MOTOR VEHICLES

SECTION

13-401. Definitions.
13-402. Violations a civil offense.
13-403. Exceptions.
13-404. Enforcement.
13-405. Violations and penalty.

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" means any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.

(2) "Private property" means 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" means 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" means 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 earth-moving equipment, and any part of the same.

(b) "Junk vehicle" means 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.

(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. (2011 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.

(3) To park, store, keep, or maintain on private property a junk vehicle. (2011 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. (2011 Code, § 13-403)

13-404. Enforcement. Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this chapter on private property. The building inspector shall, upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If, after such investigation, the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:

(1) Request the city judge to issue a summons; or

(2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, §§ 7-63-101, *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest. In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. (2011 Code, § 13-404)

13-405. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 13-405)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER
1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. MUNICIPAL FLOOD DAMAGE PREVENTION ORDINANCE.
4. SHORT-TERM RENTAL UNITS.

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 established the Harrogate Municipal Planning Commission, hereinafter referred to as the planning commission. The Harrogate Municipal Planning Commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the board of mayor and aldermen selected by the board of mayor and aldermen and five (5) shall be residents 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 citizen appointees shall be for four (4) years, with the initial terms being of such length that the term of one (1) member shall expire each year. The terms of the mayor and the member selected by the board of mayor and aldermen shall run coterminous with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor who shall also have the authority to remove any appointive member at his will and pleasure. (2011 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. (2011 Code, § 14-102)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.
14-202. Violations and penalty.

14-201. Land use to be governed by zoning ordinance. Land use within the City of Harrogate shall be governed by the "Zoning Ordinance for the City of Harrogate, Tennessee," and any amendments thereto.[1]

14-202. Violations and penalty. Violations of the zoning ordinance shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

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[1]The zoning ordinance for the City of Harrogate (and any amendments thereto) is contained in its entirety in the office of the city recorder.

CHAPTER 3

MUNICIPAL FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

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

14-301. 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 Harrogate, Tennessee, Mayor and its Legislative Body do ordain as follows:

(2) Findings of fact. (a) The City of Harrogate, Tennessee, Mayor and its Legislative Body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in 44 CFR, Ch. 1, § 60.3.

(b) Areas of the City of Harrogate, 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; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters 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; and

(h) To maintain eligibility for participation in the NFIP. (2011 Code, § 14-201)

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' to 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 hazard." See "Special flood hazard area."

(6) "Area of special flood-related erosion hazard" means 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.

(7) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. This term is also referred to as the 100-year flood or the one percent (1%) annual chance flood.

(8) "Basement" means any portion of a building having its floor subgrade (below ground level) on all sides.

(9) "Building." See "Structure."

(10) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of equipment or materials.

(11) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(12) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with 42 U.S.C. 4001, *et seq*. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

(13) "Erosion" means the process of the gradual wearing away of land masses. This peril is not "per se" covered under the program.

(14) "Exception" means a waiver from the provisions of this chapter which relieves the applicant from the requirements of a rule, regulation, order or other determination made or issued pursuant to this chapter.

(15) "Existing construction" means any structure for which the start of construction commenced before the effective date of the initial floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(16) "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management code or ordinance adopted by the community as a basis for that community's participation in the NFIP.

(17) "Existing structures." See "Existing construction."

(18) "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(19) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(20) "Flood elevation determination" means a determination by the Federal Emergency Management Agency (FEMA) of the water surface elevations of the base flood, that is, the flood level that has a one percent (1%) or greater chance of occurrence in any given year.

(21) "Flood elevation study" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

(22) "Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by FEMA, where the boundaries of areas of special flood hazard have been designated as Zone A.

(23) "Flood Insurance Rate Map (FIRM)" means an official map of a community, issued by FEMA, delineating the areas of special flood hazard or the risk premium zones applicable to the community.

(24) "Flood insurance study" means the official report provided by FEMA, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(25) "Floodplain" or "floodprone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

(26) "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including, but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.

(27) "Flood protection system" means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(28) "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities and structures and their contents.

(29) "Flood-related erosion" means the collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood, or by some similarly unusual and unforeseeable event which results in flooding.

(30) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

(31) "Flood-related erosion area management" means the operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including, but not limited to, emergency preparedness plans, flood-related erosion control works and floodplain management regulations.

(32) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(33) "Freeboard" means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, and the hydrological effect of urbanization of the watershed.

(34) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to

water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(35) "Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed walls of a structure.

(36) "Historic structure" means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on the Tennessee inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on the City of Harrogate, Tennessee inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

(i) By the approved Tennessee program as determined by the Secretary of the Interior; or

(ii) Directly by the Secretary of the Interior.

(37) "Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

(38) "Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(39) "Lowest floor" means the lowest floor of the lowest enclosed area, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(40) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a recreational vehicle.

(41) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

(42) "Map" means the Flood Hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by FEMA.

(43) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this 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.

(44) "National Geodetic Vertical Datum (NGVD)" means, as corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

(45) "New construction" means any structure for which the "start of construction" commenced on or after the effective date of the initial floodplain management ordinance and includes any subsequent improvements to such structure.

(46) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this chapter or the effective date of the initial floodplain management ordinance, and includes any subsequent improvements to such structure.

(47) "North American Vertical Datum (NAVD)" means, as corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain.

(48) "100-year flood." See "Base flood."

(49) "Person" means any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

(50) "Reasonably safe from flooding" means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed structures.

(51) "Recreational vehicle" means a vehicle which is:

(a) Built on a single chassis;

(b) Four hundred (400) square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; or

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(52) "Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(53) "Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(54) "Special flood hazard area" means the land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE or A99.

(55) "Special hazard area" means an area having special flood, mudslide (i.e., mudflow) and/or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, or AH.

(56) "Start of construction" means substantial improvement, and means the date the building permit was issued; provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. "Permanent construction" does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(57) "State coordinating agency" means the Tennessee Department of Economic and Community Development's Local Planning Assistance Office, as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(58) "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(59) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged

condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(60) "Substantial improvement" means any reconstruction, rehabilitation, addition, alteration or other improvement of a structure in which the cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the initial improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial improvement; or

(b) In the case of substantial damage, the value of the structure prior to the damage occurring.

The term does not, however, include either:

(c) 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

(d) Any alteration of a historic structure; provided that the alteration will not preclude the structure's continued designation as a historic structure.

(61) "Substantially improved existing manufactured home parks or subdivisions" means where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty percent (50%) of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

(62) "Variance" means a grant of relief from the requirements of this chapter.

(63) "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certification, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(64) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (2011 Code, § 14-202, modified)

14-303. General provisions. (1) Application. This chapter shall apply to all areas within the incorporated area of the City of Harrogate, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the City of Harrogate, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), community panel numbers 4704200100 and 4704200125, dated September 25, 2009, along with all supporting technical data, are 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 chapter 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 chapter, 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 Harrogate, 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. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefor, 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 Harrogate, Tennessee from taking such other lawful actions to prevent or remedy any violation. (2011 Code, § 14-203)

14-304. Administration. (1) Designation of ordinance administrator. The building official 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 a 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. § 1344.

(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 non-residential 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 Harrogate, 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. (2011 Code, § 14-204, modified)

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 floodwaters into the system;

(g) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(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; and

(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 floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

(i) Designs for complying with this requirement must either be certified by a Tennessee professional engineer or architect or meet or exceed the following minimum criteria.

(A) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

(B) The bottom of all openings shall be no higher than one foot (1') above the finished grade; and

(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 five (5) acres, whichever is the lesser, include within such proposals base flood elevation data (see § 14-305(5)).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-303(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights and velocities. Therefore, the following provisions shall apply:

(a) Encroachments are prohibited, including earthen fill material, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted; however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the

effective flood insurance study for the City of Harrogate, 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), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of these regulations (see subsection (5)(b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of § 14-305(1) and (2).

(b) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data.

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-302). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-304(2).

Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of § 14-305(2).

(d) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, no encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the City of Harrogate, 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.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-303(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' to 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) are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones), all provisions of §§ 14-304 and 14-305 shall apply.

(8) Standards for unmapped streams. Located within the City of Harrogate, 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. (2011 Code, § 14-205)

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 (1), two (2), and three (3) years, respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereof, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. 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 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 thirty (30) 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 the 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 Harrogate, 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;

(C) In passing upon such applications, the board of floodplain review shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other property to the injury of others;

(2) The danger to life and property due to flooding or erosion;

(3) The susceptibility of the proposed facility and its contents to flood damage;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity of the facility to a waterfront location, in the case of a functionally dependent use;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(8) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(9) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, and streets and bridges.

(D) Upon consideration of the factors listed above, and the purposes of this 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.

(E) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-306(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. (2011 Code, § 14-206)

14-307. Legal status provisions. (1) 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 Harrogate, Tennessee, the most restrictive shall in all cases apply.

(2) Severability. If any section, clause, provision, or portion of this chapter shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this chapter which is not of itself invalid or unconstitutional. (2011 Code, § 14-207)

CHAPTER 4

SHORT-TERM RENTAL UNITS

SECTION

14-401. Short-term rental units.
14-402. Additional definitions.
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14-405. Certificate application; action on certificate application; certificate approval.
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14-410. Invalidity of part; private agreements and covenants.

14-401. Short-term residential rental units. Short-term residential rental units are defined as follows:

(1) "Short-term rental unit" or "unit," "short-term rental unit," or "unit" means a residential dwelling unit that is rented wholly or partially for a fee for a period of less than or equal to thirty (30) continuous days and does not include a hotel as defined in *Tennessee Code Annotated*, § 68-14-302 or a bed and breakfast establishment or a bed and breakfast homestay as those terms are defined in *Tennessee Code Annotated*, § 68-14-502.

(2) As per the provisions of *Tennessee Code Annotated*, § 13-7-601, certain limited provisions of this chapter may not be applicable or wholly applicable to "grandfathered short-term rental units." (Ord. #139, July 2022)

14-402. Additional definitions. (1) Grandfathered short-term rental: A property that was in use as a short-term rental prior to enactment of any ordinance, resolution, regulation, rule or other requirement by the local governing body.

(2) Property held out to the public for use as a short-term rental unit: Property held out to the public as a short-term rental unit within the jurisdiction of a local governing body that did not require a permit or to be issued or an application to be approved pursuant to an ordinance specifically governing short-term rental units, the provider remitted taxes due on renting the unit pursuant to title 67, chapter 6, part 5 for filing periods that cover at least six (6) months within the twelve (12) month period immediately preceding the latter of:

(a) The effective date of this act; or

(b) The effective date of an ordinance, resolution, regulation, rule, or other requirement by a local governing body having jurisdiction over the property requiring a permit or an application to be approved pursuant to an ordinance specifically governing short-term rental units.

(3) Short-term residential rental agent: A natural person designated to be responsible for daily operations by the owner of a short-term residential rental or a short-term residential rental certificate application. Such person shall be available for and responsive to contact at all times and someone who is customarily present at a location within two (2) hours travel time for purposes of transacting the short-term residential rental business. The short-term residential rental agent must meet all other requirements set forth by state law.

(4) Short-term residential rental occupants: Guests, tourists, lessees, vacationers or any other person who, in exchange for compensation, occupy a short-term residential rental dwelling unit for lodging for a period of time not to exceed thirty (30) consecutive days, but not in any event to be from any period of time less than twenty-four (24) hours. (Ord. #139, July 2022)

14-403. Certificate required. (1) No person or entity shall operate a short-term rental unit, including without limitation a grandfathered short-term rental unit, unless a short-term rental permit has been first obtained from the City of Harrogate. To obtain a short-term rental permit, an otherwise eligible applicant must submit an application in compliance with the provisions of this chapter of the city code on a form provided by the city. If approved, a legible copy of the short-term rental permit shall be posted within the unit and shall include all of the following information:

(a) The name, address, telephone number and email address of the owner of the short-term rental unit and the short-term rental agent, if applicable;

(b) The City of Harrogate Business License Number and Claiborne County Business License Number.

(c) Any applicable hotel-motel tax certifications and or numbers as are applicable pursuant to *Tennessee Code Annotated*, § 67-4-1401 *et seq*.; NOTE 67-4-1501 (6) "Marketplace" NOTE 67-4-1502, "Sales Tax"

(d) The maximum occupancy of the unit;

(e) The maximum number of vehicles that may be parked at the unit; and

(f) The short-term rental permit number.

(2) All short-term rental units must be properly maintained and regularly inspected by the owner (provider) to ensure continued compliance with applicable zoning, housing, building, health and life safety code provisions. (Ord. #139, July 2022)

14-404. Minimum standards for short-term rental units.

(1) Short-term rental unit shall meet the following minimum standards:

(a) A short-term rental unit may include a primary dwelling unit and/or a secondary dwelling unit, but cannot include uninhabitable structures such as garages, barns or sheds.

(b) A short-term rental unit must meet all applicable laws related to zoning, housing, building, health, electrical, gas, plumbing, bedroom egress, and life safety.

(c) Short-term rental units are only permitted in R-1, R-2, B-1, B-2 Zone Districts. (Per *Tennessee Code Annotated* § 13-7-605, the only entities authorized to restrict use of property is a condominium, co-op, homeowner's association or similar entity.)

(d) There shall be no more than three (3) sleeping rooms made available for rental.

(e) Maximum occupancy: the maximum occupancy shall be determined by the total of:

(i) Two (2) persons per sleeping room up to one hundred forty (140) square feet.

(ii) For sleeping rooms over one hundred forty (140) square feet the occupant load will be determined by the area of the room divided by seventy (70) square feet.

(iii) The occupancy maximum shall be conspicuously posted within the short-term residential rental unit.

(iv) The short-term rental unit owner shall not receive any compensation or remuneration to permit occupancy and shall not permit occupancy of a short-term rental property for any agreed or contracted period of less than twenty-four (24) hours.

(f) The short-term rental permit holder shall be responsible for collecting and remitting all applicable hotel and motel and sales taxes and any other taxes required by state law and/or by the code of the City of Harrogate.

(g) Adequate on-site parking shall be provided, as determined by the city after considering proposed/maximum permitted number of guests, and frequency of operations. Parking shall not be allowed on any vegetated area of the premises on which the short-term residential rental is located.

(h) All occupants shall abide by all generally applicable codes, ordinances and regulations, including without limitation, applicable noise restrictions and all applicable waste management provisions of the city code of the City of Harrogate.

(i) The name and telephone number of the owner of the short-term rental unit or the short-term rental agent shall be conspicuously posted within the short-term rental unit.

(j) As per the provisions of *Tennessee Code Annotated*, § 13-7-601, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units".

(k) Advertising signs or signs indicating the unit location is a short-term rental unit are not allowed. (Ord. #139, July 2022)

14-405. <u>Certificate application; action on certificate application; certificate approval</u>. (1) <u>Certificate applications</u>. Applicants for a short-term rental units permit shall submit an application to the City of Harrogate. The application shall be furnished under oath on a form specified by the city. This provision shall apply whether the application is for a short-term rental unit or a "grandfathered short-term rental unit" together with documentary evidence which supports classifying to (proposed) short-term rental unit as a "grandfathered short-term rental unit." Such application shall include:

(a) The name, address, telephone number and email address of the owner of the short-term rental unit and the short-term rental agent if applicable;

(b) Documentation that applicant is the owner or the short-term rental agent;

(c) The City of Harrogate business license number and Claiborne County business license number;

(d) Certification and/or registration number relating to the hotel-motel occupancy tax authorized by *Tennessee Code Annotated*, § 67-4-1401 *et seq*.;

(e) A concept plan, indicating the subject property, the building(s) on the site intended for short-term rental unit, proposed parking and guest access;

(f) A narrative with the following:

(i) A description of the area available for short-term rental (i.e., the entire property and house, a guest cottage, a portion of the house, etc.);

(ii) A description of the number of sleeping rooms proposed for rental, which shall not be more than three (3) sleeping rooms under any circumstance;

(iii) The maximum number of guests to be accommodated at one (1) time;

(iv) The days of operation (all year, just holidays, weekend/weeknights, etc.);

(v) How trash will be handled, and the method of informing occupants about method of disposal of trash; and

(g) Proof of insurance on the dwelling unit. Insurance policy must include and explicitly state liability and property coverage are applicable to short-term rental units and its occupants.

(2) As per the provisions of *Tennessee Code Annotated*, § 13-7-601, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units."

(3) Application fee. There shall be a permit application fee of five hundred ($500.00) dollars.

(4) Application review. (a) The fire marshal and the building inspector shall inspect and ensure compliance with state and local laws.

(b) If the application meets all of the requirements set forth in this chapter, the building/codes official of the City of Harrogate shall so advise the Harrogate Board of Mayor and Aldermen and shall issue, to the applicant, a short-term rental unit permit within thirty (30) days of approval-of the application/permit. The decision of the building/codes official of the City of Harrogate as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for writ of certiorari to the Chancery Court of Claiborne County, Tennessee as provided in the *Tennessee Code Annotated*.

(c) If objections or appeals are made prior to the issuance of the short-term residential rental Certificate, the Building/Codes Official of the City of Harrogate, shall note and hold a hearing, upon notice to the applicant and the objecting parties, in a manner that the Building/Codes Official of the City of Harrogate prescribes and shall determine whether to grant or deny the short-term rental unit permit based upon the minimum standards for review as set forth herein, and as relates to any generally applicable health, safety, and/or building codes with respect to the short-term rental unit. Such hearing shall take place not later than forty-five (45) days after the application has been submitted to the City of Harrogate.

(4) As per the provisions of *Tennessee Code Annotated*, § 13-7-601, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (Ord. #139, July 2022)

14-406. Permit approval, transferability, conditions, renewal and revocation. (1) Permit approval. The permit application, if approved, shall be issued for a specific site location and/or address of the proposed short-term rental unit or grandfathered short-term rental unit provided in the application as set forth in this chapter of the city code.

(2) Upon receipt of a short-term rental unit permit number, the applicant must display said number on any materials or platforms used to advertise the short-term rental unit.

(3) Grant or denial of application. Review of an application shall be conducted in accordance with due process principles and shall be granted unless the applicant fails to meet the conditions and requirements of this chapter, or otherwise fails to demonstrate compliance with generally applicable local ordinances, state or federal law. Any false statements or information provided

in the application are grounds for revocation, suspension and/or imposition of penalties, including denial of future applications. The decision of the Building/Codes Official of the City of Harrogate as to whether to issue, deny or revoke any permit shall be final, reviewable only by application for writ of certiorari to the Chancery Court of Claiborne County, Tennessee as provided in the *Tennessee Code Annotated*.

(4) Transferability. The certificate is non-transferable to another site, property, location or owner. Grandfathered short-term rental unit permits are subject to additional transferability restrictions as provided in Tennessee Code Annotated § 13-7-601, *et seq.*, as now enacted or hereafter amended.

(5) Revocation. The City of Harrogate reserves the right to suspend, revoke and/or modify any permit as restrictions and/or conditions imposed as a granted short-term rental unit at any time upon notice to the address of record for the short-term rental unit and after a public hearing. Once the property has three (3) documented city code/ordinance and/or other violations of any generally applicable state laws or breaches of the peace within any running twelve (12) month period and/or based upon unreasonable interference with the use and enjoyment of adjoining or other nearby properties. Such violations shall be evidenced by a finding of guilt or fault or unreasonable interference with the use and enjoyment of nearby properties, by the Building/Codes Official of the City of Harrogate.

(6) A short-term rental unit permit which is revoked shall prevent its permit holder and/or any owner of or agent for the specific property from applying for a new permit for short-term rental unit permit for a period of one (1) year from date of revocation.

(7) Suspension of permit. The Building/Codes Official of the City of Harrogate may suspend a previously issued permit in the event that a permittee is found to be non-compliant with any of the terms, conditions or requirements of this chapter. A written warning may precede the suspension with time to correct to be based on severity of the non-compliance as determined by the Building/Codes Official of the City of Harrogate. Any permit which is suspended for administrative non-compliance with permitting requirements may be, upon payment of a fifty ($50.00) dollar reinstatement and inspection fee, be reinstated upon the permittee demonstrating, to the satisfaction of the Building/Codes Official of the City of Harrogate, that the non-compliance issue(s) which resulted in suspension of the permit have been resolved.

(8) No property shall be operated as a short-term rental unit which its permit is suspended and/or if its permit has been revoked and unless and until a valid short-term rental unit permit shall be subsequently issued by the Building/Codes Official of the City of Harrogate.

(9) As per the provisions of *Tennessee Code Annotated*, § 13-7-601, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (Ord. #139, July 2022)

14-407. Short-Term rental unit annual fee. (1) There shall be a short-term rental unit permit renewal and inspection fee to be paid annually in the amount of one hundred ($100.00) dollars which, upon inspection by the city and satisfactory demonstration of compliance by the permit holder and property of the terms, provisions and conditions of the chapter shall entitle the permittee to renewal of the permit for the ensuing twelve (12) months.

(2) Failure to pay the annual renewal fee and to cooperate with permit inspection requirements shall result in suspension of the permit which, if not remedied within sixty (60) days after suspension, shall automatically result in revocation of the permit for that particular location. (Ord. #139, July 2022)

14-408. Short-term rental agent. (1) The owner of a short-term rental unit shall designate a short-term rental agent on its application for a permit for a short-term rental unit. A property owner may serve as the short-term rental agent. Alternatively, the owner may designate a person as his or her agent who is over age twenty-one (21) and meets all local and state regulatory requirements to fulfill the duties of a short-term rental agent.

(2) The duties of the short-term rental Agent are to:

(a) Be reasonably available to handle any problems arising from use of the short-term rental unit;

(b) Appear on the premises of any short-term rental unit within two hours following notification from the city of issues related to the use or occupancy of the premises. This includes, but is not limited to, notification that occupants of the short-term rental unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of the city code or other applicable law pertaining to noise, disorderly conduct, overcrowding, excessive consumption of alcohol, or use of illegal drugs. Failure of the agent to timely appear to two or more complaints regarding violations may be grounds for penalties and/or permit/certificate revocations as set forth in this chapter. This is not intended to impose a duty to act as a peace officer or otherwise require the agent to place himself or herself in a perilous situation;

(c) Receive and accept service of any notice of violation or notice of hearing related to the short-term rental unit; and

(d) Monitor the short-term rental units for compliance with all laws, including without limitations compliance with the provisions of the hotel-motel tax authorized by *Tennessee Code Annotated*, § 67-4-1401, *et seq.*;

(3) An owner may change his or her designation of a short-term rental agent temporarily or permanently; however, there shall only be one such agent for a property at any given time. To change the designated agent, the owner shall notify the City of Harrogate in writing of the new agent's identity, together with all information regarding such person as required by the applicable provisions of this chapter.

(4) As per the provisions of *Tennessee Code Annotated*, § 13-7-601, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (Ord. #139, July 2022)

14-409. Failure to obtain permit; penalties. (1) Any violation of this chapter, including failure to obtain a permit or to renew a permit of continued or initiating operation of a short-term rental unit either without a permit or after revocation of a permit shall be punishable by a civil penalty of fifty ($50.00) dollars per violation. Each day that the violation continues shall be a separate offense. There shall be a rebuttable presumption that a person or entity is in violation of this chapter if they list or hold out a property as a short-term rental unit without first obtaining a short-term rental permit. This rebuttable presumption also applies to those dwellings featured on websites whose primary purpose is business related to short-term rental unit reservations.

(2) The owner and/or agent of or with respect to a "grandfathered short-term rental unit," which may be otherwise exempt from compliance with some of the regulations, conditions and requirements of this chapter shall nevertheless be required to apply for a permit within the thirty (30) days next following the effective date of this chapter. If the owner or agent shall fail to apply within said thirty (30) day period or shall otherwise fail to meet the requirements of generally applicable laws, rules and ordinances as to said grandfathered short-term rental units, shall, upon notice from the Building/Codes Official of the City of Harrogate cease operations as a short-term rental unit and shall not resume such operations or advertisement as a short-term rental unit until such time as the owner and/or property shall make a proper application for a permit and demonstrate compliance with all requirements of this chapter and generally applicable law. Based on the severity of the non-compliance the Building/Codes Official for the City of Harrogate may precede a cease operation order with a written warning including a specified time to correct the non-compliance. As provided in *Tennessee Code Annotated*, § 13-7-601, a "grandfathered short-term rental unit" may lose grandfathered status by failure to adhere to and/or violation of all or any of the qualifying conditions and/or requirements of *Tennessee Code Annotated*, § 13-7-603, including but not limited to

(a) The property used as a grandfathered short-term rental unit is sold or otherwise transferred by or from the owner(s) of the property when first qualified or established as a grandfathered short-term rental unit and/or;

(b) The property ceases to be used as a short-term rental unit for any period of thirty (30) continuous months and/or;

(c) The property has been found to be in violation of a generally applicable local chapter or state law on three (3) or more separate times and with no appeal opportunities remaining.

(3) As per the provisions of *Tennessee Code Annotated*, § 13-7-601, certain limited provisions of this subsection may not be applicable or wholly applicable to "grandfathered short-term rental units." (Ord. #139, July 2022)

14-410. Invalidity of part; private agreements and covenants.

(1) Should any court of competent jurisdiction declare any section, clause or provision so declared unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provisions of this chapter. Additionally, this chapter shall in no way be used to supersede any privately created agreements or covenants by any homeowner associations or developers restricting certain uses.

(2) Every section, clause, and phrase of this chapter is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not affect or impair any other section, sentence, clause, or phrase.

(3) This chapter shall take effect from and after the date of its final passage the health, safety and welfare of the citizens of the City of Harrogate requiring it. (Ord. #139, July 2022)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING[1]

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

CHAPTER 1

MISCELLANEOUS[2]

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. School safety patrols.
15-111. Driving through funerals or other processions.
15-112. Clinging to vehicles in motion.

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[1]Municipal code reference
Excavations and obstructions in streets, etc.: title 16.

[2]State law references
Under *Tennessee Code Annotated*, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by *Tennessee Code Annotated*, § 55-10-401; failing to stop after a traffic accident, as prohibited by *Tennessee Code Annotated*, §§ 55-10-101, *et seq.*; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-50-504; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

15-113. Riding on outside of vehicles.
15-114. Backing vehicles.
15-115. Projections from the rear of vehicles.
15-116. Causing unnecessary noise.
15-117. Vehicles and operators to be licensed.
15-118. Passing.
15-119. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
15-120. Delivery of vehicle to unlicensed driver, etc.
15-121. Compliance with financial responsibility law required.
15-122. Adoption of state traffic statutes.

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. (2011 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. (2011 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. (2011 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.

(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. (2011 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. (2011 Code, § 15-105)

15-106. Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, 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. (2011 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 unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

15-108. General requirements for traffic control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*,[2] and shall be uniform as to type and location throughout the city.

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

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[1]Municipal code references

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

[2]For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, *et seq*.

official traffic control sign, signal, marking, or device or any railroad sign or signal. (2011 Code, § 15-109)

15-110. 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. (2011 Code, § 15-110)

15-111. 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. (2011 Code, § 15-111)

15-112. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to, any other moving vehicle upon any street, alley, or other public way or place. (2011 Code, § 15-112)

15-113. Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (2011 Code, § 15-113)

15-114. 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. (2011 Code, § 15-114)

15-115. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (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. (2011 Code, § 15-115)

15-116. **<u>Causing unnecessary noise</u>**. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (2011 Code, § 15-116)

15-117. **<u>Vehicles and operators to be licensed</u>**. It shall be unlawful for any person to operate a motor vehicle in violation of the Tennessee Motor Vehicle Title and Registration Law, being *Tennessee Code Annotated*, § § 55-1-101, *et seq*. or the Uniform Classified and Commercial Driver License Act of 1988, being *Tennessee Code Annotated*, §§ 55-50-101, *et seq*. (2011 Code, § 15-117, modified)

15-118. **<u>Passing</u>**. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (2011 Code, § 15-118)

15-119. **<u>Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc</u>**. (1) <u>Definitions</u>. 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, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the city applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, 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 Memorial Foundation, Inc.

(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.

15-120. Delivery of vehicle to unlicensed driver, etc.

(1) Definitions. (a) "Adult" shall mean any person eighteen (18) years of age or older.

(b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.

(c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.

(d) "Drivers license" shall mean a motor vehicle driver's license issued by the State of Tennessee or any other jurisdiction.

(e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.

(2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle driver's license as issued by the Department of Safety of the State of Tennessee, or any other jurisdiction, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the City of Harrogate unless such person has a valid motor vehicle driver's license as issued by the Department of Safety of the State of Tennessee, or any other jurisdiction.

(3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the city in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the city.

15-121. <u>Compliance with financial responsibility law required</u>.

(1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.

(2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" shall be defined by *Tennessee Code Annotated*, § 55-12-139:

(3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars ($50.00).

(4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.

(5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any

charge that is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.

15-122. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the city 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 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.

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.
15-205. Violations and penalty.

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. (2011 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:

(a) Park or stand, irrespective of the provisions of this title;

(b) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;

(c) Exceed the maximum speed limit so long as life or property is not thereby endangered; and

(d) Disregard regulations governing direction of movement or turning in specified directions.

(3) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and visual signals meeting the requirements of the applicable laws of this state, except that an authorized emergency vehicle operated as a police vehicle may be equipped with or display a red light only in combination with a blue light visible from in front of the vehicle. (2011 Code, § 15-202)

15-203. Following emergency vehicles. No driver of any vehicle other than one on official business shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred

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[1]Municipal code reference

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

feet (500') or drive or park such vehicle within the block where a fire apparatus has stopped in answer to a fire alarm. (2011 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. (2011 Code, § 15-204)

15-205. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 15-205)

CHAPTER 3

SPEED LIMITS

SECTION
15-301. In general.
15-302. At intersections.
15-303. In school zones.
15-304. Violations and penalty.

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. (2011 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. (2011 Code, § 15-302)

15-303. In school zones. Pursuant to *Tennessee Code Annotated*, § 55-8-152, the city 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. (2011 Code, § 15-303)

15-304. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 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. Violations and penalty.

15-401. Generally. Every driver who intends to turn, or partly turn, from a direct line shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement, shall give a signal required in *Tennessee Code Annotated*, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement. (2011 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. (2011 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 centerline thereof and by passing to the right of such centerline where it enters the intersection, and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the centerline of the roadway being entered. Whenever practicable, the left turn shall be made in that portion of the intersection to the left of the center of the intersection. (2011 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. (2011 Code, § 15-404)

15-405. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty

provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 15-405)

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.
15-510. Violations and penalty.

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 a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway. (2011 Code, § 15-501)

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. (2011 Code, § 15-502)

15-503. At railroad crossings. (1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty feet (50') but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until that driver can do so safely. The foregoing requirements shall apply when:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

(b) A crossing gate is lowered or when a human flagger gives or continues to give a signal of the approach or passage of a railroad train;

(c) A railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal

audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; and

(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

(2) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (2011 Code, § 15-503)

15-504. At "stop" signs. The driver of a vehicle facing a "stop" sign shall stop before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection, except when directed to proceed by a police officer or traffic control signal. (2011 Code, § 15-504)

15-505. At "yield" signs. (1) The driver of a vehicle who is faced with a yield sign at the entrance to a through highway or other public roadway is not necessarily required to stop, but is required to exercise caution in entering the highway or other roadway and to yield the right-of-way to other vehicles which have entered the intersection from the highway or other roadway, or which are approaching so closely on the highway or other roadway as to constitute an immediate hazard, and the driver having so yielded may proceed when the way is clear.

(2) Where there is provided more than one (1) lane for vehicular traffic entering a through highway or other public roadway, if one (1) or more lanes at such entrance are designated a yield lane by an appropriate marker, this section shall control the movement of traffic in any lane so marked with a yield sign, even though traffic in other lanes may be controlled by an electrical signal device or other signs, signals, markings or controls. (2011 Code, § 15-505)

15-506. At traffic control signals generally. Whenever traffic is controlled by traffic control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, the following colors only shall be used and the terms and lights shall indicate and 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 either 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) Yellow alone, or "Caution", when shown following the green or "Go" signal:

(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 the signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(3) 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. A right turn on a red signal shall be permitted at all intersections within the city; provided that the prospective turning car shall come to a full and complete stop before turning and that the turning car shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, such turn will not endanger other traffic lawfully using the intersection. A right turn on red shall be permitted at all intersections, except those that are clearly marked by a "No Turns On Red" sign, which may be erected by the city at intersections which the city decides require no right turns on red in the interest of traffic safety.

(b) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(c) A left turn on a red or stop signal shall be permitted at all intersections within the city where a one-way street intersects with another one-way street moving in the same direction into which the left turn would be made from the original one-way street. Before making such a turn, the prospective turning car shall come to a full and complete stop and shall yield the right-of-way to pedestrians and cross traffic traveling in accordance with the traffic signal so as not to endanger traffic lawfully using the intersection. A left turn on red shall be permitted at any applicable intersection except that clearly marked by a "No Turn on Red" sign, which may be erected by the city at intersections which the city decides requires no left turns on red in the interest of traffic safety.

(d) The driver of a motorcycle approaching an intersection that is controlled by a traffic control signal utilizing a vehicle detection device that is inoperative due to the size of the motorcycle shall come to a full and complete stop at the intersection and, after exercising due care as

provided by law, may proceed with due caution when it is safe to do so. It is not a defense to § 15-506, "At traffic control signals generally," that the driver of a motorcycle proceeded under the belief that a traffic control signal utilized a vehicle detection device or was inoperative due to the size of the motorcycle when such signal did not utilize a vehicle detection device or that any such device was not in fact inoperative due to the size of the motorcycle.

(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) No pedestrian facing such signal shall enter the roadway unless such entry can be made safely and without interfering with any vehicular traffic.

(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 at the signal. (2011 Code, § 15-506)

15-507. At flashing traffic control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal, it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, and the light is clearly visible for a sufficient distance ahead to permit such stopping, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-503 of this chapter. (2011 Code, § 15-507)

15-508. At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" are in place, such signals shall indicate as follows:

(1) "Walk." Pedestrians facing such signals 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 crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing. (2011 Code, § 15-508)

15-509. Stops to be signaled. Every driver operating a motor vehicle who intends to stop such vehicle shall first see that such movement can be made in safety, and whenever the operation of any other vehicle may be affected by such movement shall give the signal required in *Tennessee Code Annotated*, § 55-8-143, plainly visible to the driver of such other vehicle of the intention to make such movement. (2011 Code, § 15-509)

15-510. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 15-510)

CHAPTER 6

PARKING

SECTION

15-601. Generally.
15-602. Angle parking.
15-603. Occupancy of more than one space.
15-604. Where prohibited.
15-605. Loading and unloading zones.
15-606. Presumption with respect to illegal parking.
15-607. Violations and penalty.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within the city shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. 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. (2011 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'). (2011 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. (2011 Code, § 15-603)

15-604. Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or city, nor:

(1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic;

(2) In front of a public or private driveway;

(3) Within an intersection;

(4) Within fifteen feet (15') of a fire hydrant;

(5) Within a pedestrian crosswalk;

(6) Within twenty feet (20') of a crosswalk at an intersection;

(7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic control signal located at the side of a roadway;

(8) Within fifty feet (50') of the nearest rail of a railroad crossing;

(9) 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 such entrance when properly signposted;

(10) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(12) Upon any bridge or other elevated structure upon a highway or within a highway tunnel; or

(13) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless, however, the person driving the vehicle is:

(a) Physically handicapped; or

(b) Parking such vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under *Tennessee Code Annotated*, title 55, chapter 21. (2011 Code, § 15-604)

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. (2011 Code, § 15-605)

15-606. Presumption with respect to illegal parking. When any unoccupied vehicle is found parked in violation of any provision of this chapter, there shall be a prima facie presumption that the registered owner of the vehicle is responsible for such illegal parking. (2011 Code, § 15-606)

15-607. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty

provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 15-607)

CHAPTER 7

ENFORCEMENT

SECTION
15-701. Issuance of traffic citations.
15-702. Failure to obey citation.
15-703. Illegal parking.
15-704. Impoundment of vehicles.
15-705. Disposal of abandoned motor vehicles.
15-706. Deposit of driver's license in lieu of bail.
15-707. 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. (2011 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. (2011 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 thirty (30) days during the hours and at a place specified in the citation. (2011 Code, § 15-703)

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[1]Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 1.

15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic, or which has been parked for more than one (1) hour in excess of the time allowed for parking in any place, or which has been involved in two (2) or more violations of this title for which citation tags have been affixed to the vehicle and the vehicle not removed. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs of impoundment and storage, or until it is otherwise lawfully disposed of. (2011 Code, § 15-704)

15-705. Disposal of abandoned motor vehicles. "Abandoned motor vehicles," as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 to 55-16-109. (2011 Code, § 15-705)

15-706. Deposit of driver's license in lieu of bail. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofor issued to him by the Tennessee Department of Safety, or under the driver licensing laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any city ordinance or state statute regulating traffic, except those ordinances and statutes the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court of this city in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail, as described above, shall issue the person a receipt for the license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited. The receipt shall be valid as a temporary driving permit for a period not less than the time necessary for an appropriate adjudication of the matter in the city court, and shall state such period of validity on its face.

(3) Failure to appear -- disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the

provisions of *Tennessee Code Annotated*, §§ 55-50-801, *et seq*. (2011 Code, § 15-706)

15-707. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 15-707)

TITLE 16

STREETS AND SIDEWALKS, ETC[1]

CHAPTER
1. MISCELLANEOUS.
2. STREET CUTS.

CHAPTER 1

MISCELLANEOUS

SECTION
16-101. Obstructing streets, alleys, or sidewalks prohibited.
16-102. Trees projecting over streets, etc., regulated.
16-103. Trees, etc., obstructing view at intersections prohibited.
16-104. Projecting signs and awnings, etc., restricted.
16-105. Banners and signs across streets and alleys restricted.
16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
16-107. Obstruction of drainage ditches.
16-108. Abutting occupants to keep sidewalks clean, etc.
16-109. Parades, etc., regulated.
16-110. Animals and vehicles on sidewalks.
16-111. Fires in streets, etc.
16-112. Violations and penalty.

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. (2011 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 over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (2011 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, shrub, sign, or other obstruction which prevents persons

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[1]Municipal code reference
Related motor vehicle and traffic regulations: title 15.

driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (2011 Code, § 16-103)

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] (2011 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 or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (2011 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 except when required by law. (2011 Code, § 16-106)

16-107. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (2011 Code, § 16-108)

16-108. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (2011 Code, § 16-109)

16-109. Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the city recorder. (2011 Code, § 16-110)

16-110. Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as unreasonably interferes with or inconveniences pedestrians using the sidewalk. It shall also be unlawful for any person knowingly to allow any minor under his control to violate this section. (2011 Code, § 16-111)

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[1]Municipal code reference
Building code: title 12, chapter 1.

16-111. Fires in streets, etc. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (2011 Code, § 16-112)

16-112. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 16-113)

CHAPTER 2

STREET CUTS

SECTION

16-201. Purpose.
16-202. Definitions.
16-203. Permit required; standards of repairs.
16-204. Deposit or bond.
16-205. Insurance.
16-206. Supervision.
16-207. Violations and penalty.

16-201. Purpose. The purpose of this chapter is to regulate excavation, tunneling, fill, paving, or any alteration or repair by any individual, business, or governmental agency within the public street right-of way. (2011 Code, § 16-201)

16-202. Definitions. For the purpose of this chapter:

(1) "Construction" means any excavation, tunneling, fill, paving, alteration or repair.

(2) "Person" means any individual, contractor, or agent of any public board or utility.

(3) "Street" means the full width of the public right-of-way. (2011 Code, § 16-202)

16-203. Permit required; standards of repairs. No person shall, without first obtaining a permit, commence any construction within any street or close any street for any length of time. Permits may be obtained by making an application for a permit to the city recorder to issue such permit. In the case of an emergency that it becomes necessary for such construction, such as nights, weekends or holidays, the entity responsible is required to request the permit on the first workday after such emergency. The application shall consist of a written statement describing the work proposed, any required construction drawings, and a time schedule for the completion of the work. The following standards shall be used to review the application for a permit and to inspect subsequent construction.

(1) All work of repairing surfaces which have been cut or opened shall be done in accordance with the specifications and standards of workmanship adopted by the City of Harrogate and shall be inspected by the city. Should any cut or trench not be refilled in accordance to these standards, the city may cause such opening to again be excavated and refilled to its satisfaction at the expense of the permittee. The permittee shall be responsible for total street failure, including changes in sub-base and supporting area, resulting from a meter main

breakage or from a sewer line breakage that was directly caused by a previous excavation of the permittee.

(2) The holder of a permit shall perform the work provided for therein with due regard to the public convenience and safety and as expeditiously as possible. Such permits shall expire automatically thereunder unless the work is begun within thirty (30) days after its issuance. Any permit not used within thirty (30) days shall be returned for cancellation or renewal.

(3) The holder of a permit while making the repairs shall use every precaution required as to barricades, lights and devices for the safety of the public. This section shall not relieve the holder of the permit from responsibilities for accidents, should any occur. It shall be distinctly understood, and the application and permit shall state, that all persons making openings shall hold the city and its employees harmless from all damages which may be recovered by reason of injuries received to persons or property on account of such openings.

(4) The holder of a permit shall, as soon as physically possible, repair the opening surface equal to or better than its original state as before the opening was made and shall repair all latent defects in construction for a period of three (3) years after completion of such opening. (2011 Code, § 16-203)

16-204. Deposit or bond. No permit shall be issued unless and until the applicant therefor has deposited with the recorder a cash deposit. The deposit shall be in the sum of two hundred dollars ($200.00) per excavation or tunnel and shall ensure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the recorder, or such other person as may be designated by the board of mayor and aldermen, may increase the amount of the deposit to an amount considered by the recorder or designated representative to be adequate to cover the cost. If the applicant fails to comply with the restoration provision of this section, the expense to the city of relaying the surface of the ground or pavement, and of making the refill, shall be deducted from the deposit. The balance shall be returned to the permittee without interest as provided herein after the tunnel or excavation is completely refilled and the surface or pavement is restored.

Any public utility intending to make excavations or tunnels may make and maintain with the city an annual deposit, surety bond, or letter of commitment in such form or amount as the designated representative of the board of mayor and aldermen deems adequate. (2011 Code, § 16-204)

16-205. Insurance. In addition to making the deposit or giving the bond hereinbefore required to ensure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the

performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars ($300,000.00) for each person, and not less than seven hundred thousand dollars ($700,000.00) for each accident, and for property damages not less than one hundred thousand dollars ($100,000.00) for each accident. (2011 Code, § 16-205)

16-206. Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the city and see to the enforcement of the provisions of this chapter. Notice shall be given to him at least ten (10) hours before the work of refilling any such excavation or tunnel commences. (2011 Code, § 16-206)

16-207. Violations and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 16-207)

TITLE 17

REFUSE AND TRASH DISPOSAL

[RESERVED FOR FUTURE USE]

TITLE 18

WATER AND SEWERS[1]

CHAPTER
1. WASTEWATER SERVICE CONNECTION FEES.
2. WASTEWATER CONTROL.

CHAPTER 1

WASTEWATER SERVICE CONNECTION FEES[2]

SECTION
18-101. Fee established.
18-102. System usage.
18-103. Formula.
18-104. Example guide.
18-105. Schedule of usage and fees.
18-106. Delegation of authority to mayor to determine fees.
18-107. Customer service fee.

18-101. Fee established. The city wastewater service connection fee is two hundred (200) gallons per day per examining room hereby set at one thousand two hundred dollars ($1,200.00) per unit and:

(1) Each new customer must pay for the cost of the service connection to the wastewater system prior to any service connection.

(2) Residential customers are not permitted to share a common meter or connection to avoid the rate system designed for the recovery of capital and operating costs.

(3) Where the water utility has allowed the use of a common meter, the city may assess a separate connection fee per dwelling unit.

(4) All customers are required to pay at least a minimum wastewater service connection fee as established by this chapter.

(5) For the purpose of this chapter, a "unit" is defined as a separate living unit for apartments and dwellings. (2011 Code, § 18-101)

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[1]Municipal code references
Building, utility and residential codes: title 12.

[2]Wastewater rates, as amended from time to time, are available in the office of the recorder-treasurer.

18-102. System usage. In an effort to make the tap fee as fair and objective as possible, a method based upon commercial, industrial, and institutional water consumption requirements outlined in *Community Water Systems Source Book*, fifth edition, shall be used.

(1) Using one hundred (100) gallons per day of water per person and two and one-half (2-1/2) residents per household, the average usage for the service is seven thousand five hundred (7,500) gallons per month. Thus, seven thousand five hundred (7,500) is the basic measure of usage associated with one (1) connection or one (1) unit and it is the same measure used by the state in evaluating facility designs. The application of all other uses shall be computed according to the above referenced design standards regardless of what the actual usage of the system is.

(2) Schedule of water consumption requirements. The following water consumption shall be used in computing wastewater service connection fees:

Residential:	100 gallons per day per person
Apartments and condominiums	100 gallons per day per person (Based on the number of meters or rental units)
Schools	16 gallons per person per day (Based upon projected enrollment)
Churches	3 gallons per person per day (Based upon membership enrollment)
Civic clubs	3 gallons per person per day (Based upon membership enrollment)
Hospitals	300 gallons per bed per day
Nursing homes	Actual water consumption of the facility
Rooming houses	100 gallons per person per day (Based upon the number of roomers)
Commercial and Industrial:	
Barber shop	100 gallons per day per chair
Beauty shop	125 gallons per day per chair
Dentist office	200 gallons per day per chair
Department store	40 gallons per day per employee
Drug store	500 gallons per day

With fountain service	Plus 1,500 gallons per day additional
Serving meals	Plus 50 gallons per day per seat additional
Industrial plant	30 gallons per day per employee
Laundry	5,000 gallons per day
Launderette	250 gallons per day per machine
Shopping center no food	150 gallons per day per 1000 SF
Retail store	150 gallons per day per 1000 SF
Restaurants	20 gallons per day per seat
Motels	38 gallons per room per day
Service station	10 gallons per day per vehicle served
Theater	3 gallons per day per seat
Office building	12 gallons per day per 100 SF
Car wash	1,500 gallons per day per wash rack
Physician's office	200 gallons per day per examining room
Child care center	10 gallons per day per child and adult

(Ord. #86, Oct. 2011, as amended by Ord. #95, April 2015)

18-103. **Formula**. The formula for calculating the service connection fee, sometimes referred to as the "tap fee," is:

Gallons per day x 30 days usage/7,50 0 gallons x $1,200.00 (tap fee). (2011 Code, § 18-103, modified)

18-104. **Example guide**. Example: A ten thousand (10,000) SF office building, The number of units is twelve (12) gallons per day per one hundred (100) SF (from the above usage standards) or one thousand two hundred (1,200) gallons per day. Multiplied by thirty (30) days in the month the usage is thirty-six thousand (36,000) gallons per month. Divide by the seven thousand five hundred (7,500) gallon base for each unit or tap and twenty-four fifths (24/5) units are determined. To determine the connection fee, multiply twenty-four fifths (24/5) times one thousand two hundred dollars ($1,200.00) (established by the city utility board). The connection fee for an office building used in the above example would be as follows: twenty-four fifths (24/5) times one thousand two hundred dollars ($1,200.00) or five thousand seven hundred sixty dollars ($5,760.00) connection fee. (2011 Code, § 18-104)

18-105. Schedule of usage and fees. The following schedules of fees are included as a part of this chapter and are applicable to all service connection fees.

Wastewater connection fees schedule:

Residential single unit - 100 gallons per day per person. Using 2.5 persons per household for 30 days the monthly water usage is 7,500 gallons. This monthly usage represents one equity connection fee. The equity connection fee is $1,200.00.

Apartments, rooming houses, condominiums, duplexes, triplexes, etc. - Each apartment unit, rooming house unit, condominium unit, duplex unit, triplex unit, etc. are assessed a fee of $1,200.00 per unit. Each unit is treated just like a single residential unit. The service connection fee for a 14 unit apartment building would be 14 x $1,200.00 or $16,800.00.

Barber shop - 100 gallons per day per chair. Using 2 chairs, 100 x 2 x 30 days equal 6,000 gallons per month usage. 6,000 gallons/7,500 residential base usage equals 0.8 connections. The connection fee would be $960.00. The shop would be assessed the minimum service connection fee of $1,200.00.

Beauty shop - 125 gallons per day per chair. Using 4 chairs, 125 x 4 x 30 days equal 15,000 gallons per month usage. 15,000 gallons/7,500 residential base usage equals 2 connections. The connection fee would be 2 x $1,200.00 or $2,400.00.

Dentist office - 750 gallons per day per chair. Using 2 chairs, 750 x 2 x 30 days equal 45,000 gallons per month usage. 45,000 gallons/7,500 residential base usage equals 6 connections. The connection fee would be 6 x $1,200.00 or $7,200.00.

Department store - 40 gallons per day per employee. Using 4 employees, 40 x 4 x 30 days equal 4,800 gallons per month usage. 4,800 gallons/7,500 residential base usage equals 64 connections. The connection fee would be .64 x $1,200.00 or $768.00. The department store would be assessed the minimum service connection fee of $1,200.00.

Drug store - 500 gallons per day. 500 x 30 days equal 15,000 gallons per month usage. 15,000 gallons/7,500 residential base usage equals 2 connections. The connection fee would be 2 x $1,200.00 or $2,400.00.

Church - 3 gallons per day per member. Using 300 members, 3 x 300 x 30 days equal 27,000 gallons per month usage 27,000 gallons/7,500 residential base usage equals 3.6 connections. The connection fee would be 3.6 x $1,200.00 or $4,320.00. If the connection serves a separate building at the church an estimate of the number of people who will use the building should be used for the number of members.

<u>Schools</u> - 16 gallons per day per person. Using 300 enrollment, 16 x 300 x 30 days equal 144,000 gallons per month usage. 144,000 gallons/7,500 residential base usage equals 19.2 connections. The connection fee would be 19.2 x $1,200.00 or $23,040.00.

<u>Hospitals</u> - 300 gallons per day per bed. Using 100 beds, 300 x 100 x 30 days equal 900,000 gallons per month usage. 900,000 gallons/7,500 residential base usage equals 120 connections. The connection fee would be 120 x $1,200.00 or $144,000.00.

<u>Nursing homes</u> - 195 gallons per day per bed. Using 25 beds, 195 x 25 x 30 days equal 146,250 gallons per month usage. 146,250 gallons/7,500 residential base usage equals 19.5 connections. The connection fee would be 19.5 x $1,200.00 or $23,400.00.

<u>Laundry</u> - 5,000 gallons per day. 5,000 x 30 days equal 150,000 gallons per month usage. 150,000 gallons/7,500 residential base usage equals 20 connections. The connection fee would be 20 x $1,200.00 or $24,000.00.

<u>Launderette</u> - 250 gallons per day per machine. Using 10 washing machines, 250 x 10 x 30 days equal 75,000 gallons per month usage. 75,000 gallons/7,500 residential base usage equals 10 connections. The connection fee would be 10 x $1,200.00 or $12,000.00.

<u>Shopping center</u> - 150 gallons per day per 1,000 SF. Using 20,000 SF, 150 x 20 x 30 days equal 90,000 gallons per month usage. 90,000 gallons/17,500 residential base usage equals 12 connections. The connection fee would be 12 x $1,200.00 or $14,400.00.

<u>Restaurant</u> - 20 gallons per day per seat. Using 40 seats, 20 x 40 x 30 days equal 24,000 gallons per month usage. 24,000 gallons/7,500 residential base usage equals 3.2 connections. The connection fee would be 3.2 x $1,200.00 or $3,840.00.

<u>Motel</u> - 63 gallons per day per room. Using 50 rooms, 63 x 50 x 30 days equal 94,500 gallons per month usage. 94,500 gallons/7,500 residential base usage equals 12.6 connections. The connection fee would be 12.6 x $1,200.00 or $15,120.00.

<u>Office building</u> - 12 gallons per day per 100 SF. Using 10,000 SF, 12 x 100 x 30 days equal 36,000 gallons per month usage. 36,000 gallons/7,500 residential base usage equals 4.8 connections. The connection fee would be 4.8 x $1,200.00 or $5,760.00.

<u>Car wash</u> - 1,500 gallons per day per wash rack. Using 6 wash racks, 1,500 x 6 x 30 days equal 270,000 gallons per month usage. 270,000 gallons/7,500 residential base usage equals 36 connections. The connection fee would be 36 x $1,200.00 or $43,200.00.

<u>Physician's office</u> - 200 gallons per day per examining room. Using 4 rooms, 200 x 4 x 30 days equal 24,000 gallons per month usage. 24,000 gallons/7,500 residential base usage equals 3.2 connection fees. The connection fee would be 3.2 x $1,200.00 or $3,840.00.

Child care center - 10 gallons per day per child and adult. Using 20 persons, 10 x 20 x 30 days equal 6,000 gallons per month. 6,000 gallons/7,500 residential base usage equals 8 connections. The connection fee would be .8 x $1,200.00 or $960.00. The minimum tap fee of $1,200.00 would be charged.

Service station - 10 gallons per day per vehicle. Using 75 vehicles, 10 x 75 x 30 days equal 22,500 gallons per month usage. 22,500 gallons/7,500 residential base usage equals 3 connections. The connection fee would be 3 x $1,200.00 or $3,600.00. (2011 Code, § 18-105, modified)

18-106. Delegation of authority to mayor to determine fees. The board of mayor and aldermen, serving as the city's utility board, hereby delegates to the mayor or his designee the authority to determine service connection fees as herein required and to collect such fees upon application for service. Funds received shall be deposited in a utility enterprise fund. (2011 Code, § 18-106)

18-107. Customer service fee. A non-refundable customer service fee of one hundred twenty-five dollars ($125.00) is hereby required each time a customer establishes an account and/or a connection with the city's wastewater treatment system. (Ord. #133, Feb. 2021)

CHAPTER 2

WASTEWATER CONTROL

SECTION

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18-201. Purpose and policy. This chapter sets forth uniform requirements for the disposal of wastewater in the service area of the City of Harrogate's wastewater collection system and the Claiborne Utility District's wastewater collection and treatment system. The objectives of this chapter are:

(1) To protect the public health;

(2) To provide problem free wastewater collection and treatment service;

(3) To prevent the introduction of pollutants into the municipal wastewater treatment system, which will interfere with the system operation, which will cause the system discharge to violate its National Pollutant Discharge Elimination System (NPDES) permit or other applicable state requirements, or which will, cause physical damage to the city's wastewater collection system and CUDs wastewater collection and treatment system facilities;

(4) To provide for full and equitable distribution of the cost of the wastewater treatment system;

(5) To enable the city to comply with the provisions of the Federal Water Pollution Control Act, the general pretreatment regulations (40 CFR Part 403), and the Tennessee Water Quality Control Act, *Tennessee Code Annotated*, §§ 69-3-123, *et seq.*; and

(6) To improve the opportunity to recycle and reclaim wastewaters and sludges from the wastewater treatment system.

In meeting these objectives, this chapter provides that all persons in the service area of city must have adequate wastewater treatment either in the form of a connection to the municipal wastewater collection and treatment system or, where the system is not available, an appropriate private disposal system. This chapter also provides for the issuance of permits to system users, for the regulations of wastewater discharge volume and characteristics, for monitoring and enforcement activities; and for the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater collection and treatment system and from other activities required by the enforcement and administrative program established herein.

This chapter shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the municipal wastewater collection treatment system. Except as otherwise provided herein, the local administrative officer of the city shall administer, implement, and enforce the provisions of this chapter.

The city operates a wastewater collection system for the benefit of its customers. Wastewater collection by the city is treated pursuant to a certain wastewater agreement between the city and Claiborne Utility District. Therefore, customers of the city are also subject to the rules and regulations of Claiborne Utility District. (Ord. #80, April 2011)

18-202. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Act" or the "Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended 33 U.S.C. §§ 1251, *et seq*.

(2) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(3) "Authorized representative of industrial user." An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(4) "Biochemical Oxygen Demand (BOD)." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees centigrade (20ºC) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(5) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(6) "Categorical standards." The national categorical pretreatment standards or pretreatment standard.

(7) "City." The City of Harrogate.

(8) "CUD." Claiborne Utility District means the utility district organized in Claiborne County pursuant to the Utility District Law of 1937 with whom the city has contracted for wastewater treatment.

(9) "Commissioner." The commissioner of environment and conservation or the commissioner's duly authorized representative and, in the event of the commissioner's absence or a vacancy in the office of commissioner, the deputy commissioner.

(10) "Compatible pollutant." BOD, suspended solids, pH, fecal coliform bacteria, and such additional pollutants as are now or may in the future be specified and controlled in the city's NPDES permit for its wastewater treatment works where sewer works have been designed and used to reduce or remove such pollutants.

(11) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the composting or sample period.

(12) "Control authority." The term "control authority" shall refer to the "approval authority," defined hereinabove; or the local hearing authority if HUB has an approved pretreatment program under the provisions of 40 CFR § 403.11.

(13) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(14) "Customer." Any individual, partnership, corporation, association, or group who receives sewer service from the city under either an express or implied contract requiring payment to HUB or the city for such service.

(15) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(16) "Domestic wastewater." Wastewater that is generated by a single family, apartment or other dwelling unit or dwelling unit equivalent, or commercial establishment containing sanitary facilities for the disposal of wastewater and used for residential or commercial purposes only.

(17) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the said agency.

(18) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(19) "Grab sample." A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow in the waste stream and is collected over a period of time not to exceed fifteen (15) minutes. Grab sampling

procedure: Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one (1) detention period. The detention period is to be based on a twenty-four (24) hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results.

(20) "Grease interceptor." An interceptor whose rated flow is fifty (50) g.p.m. or less and is generally located inside the building.

(21) "Grease trap." An interceptor whose rated flow is fifty (50) g.p.m. or more and is located outside the building.

(22) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(23) "HUB." Harrogate Utility Board or the board of mayor and aldermen.

(24) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(25) "Indirect discharge." The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b) or (c) of the Act, (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

(26) "Industrial user." A source of indirect discharge which does not constitute a "discharge of pollutants" under regulations issued pursuant to section 402, of the Act (33 U.S.C. § 1342).

(27) "Industrial wastes." Any liquid, solid, or gaseous substance, or combination thereof, or form of energy including heat, resulting from any process of industry, manufacture, trade, food processing or preparation, or business or from the development of any natural resource.

(28) "Interceptor." A device designed and installed to separate and retain for removal, by automatic or manual means, deleterious, hazardous or undesirable matter from normal wastes, while permitting normal sewage or waste to discharge into the drainage system by gravity.

(29) "Interference." The inhibition or disruption of the municipal wastewater processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act (33 U.S.C. § 1345) or any criteria including 40 CFR part 503, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), being 42 U.S.C. §§ 6901, *et seq.*, rules and regulations of the State of Tennessee, chapter 0400-11-01 (Solid Waste Processing and Disposal), the Clean Air Act,

the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to title IV of SWDA) applicable to the method of disposal or use employed by the municipal wastewater treatment system.

(30) "Local administrative officer." The chief administrative officer of the city or his or her designated representative.

(31) "Local hearing authority." The board of mayor and aldermen or such person or persons appointed by the board to administer and enforce the provisions of this chapter and conduct hearings pursuant to § 18-210.

(32) "NAICS" or "North American Industrial Classification System." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces the Standard Industrial Classification (SIC) system.

(33) "National categorical pretreatment standard or pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users.

(34) "New source." Any source, the construction of which is commenced after the publication of proposed regulations prescribing a section 307(c) (33 U.S.C. § 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the federal register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a "new source" means any source, the construction of which is commenced after the date of promulgation of the standard.

(35) "NPDES (National Pollution Discharge Elimination System)." The program for issuing, conditioning, and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zone, and the oceans pursuant to section 402 of the Federal Water Pollution Control Act, as amended.

(36) "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. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the context.

(37) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(38) "Pollutant." Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharge into water.

(39) "Pollution." The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(40) "POTW treatment plant." That portion of the POTW designed to provide treatment to wastewater.

(41) "Pretreatment or treatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, biological processes, or process changes or other means, except through dilution as prohibited by 40 CFR § 403.6(d).

(42) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(43) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(44) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by section 212 of the Act (33 U.S.C. § 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city, who are, by contract or agreement with the city, users of the city's POTW.

(45) "Secondary cutoff." A device installed on the customer's side of any metering device utilized by any potable water provider which allows the city to discontinue potable water service to the customer to enforce the provisions of this chapter including, but not limited to, the collection of fees and charges imposed in connection with providing sewer service.

(46) "Service contract." The service contract or contract for sewer service entered into between the city and any customer which contains the terms and conditions under which the city provides sewer service to the customer including, but not limited to, the terms and conditions of this chapter, the rates, fees and charges imposed by the sewer use ordinance or any other enactment adopted by the city or that is authorized by either the sewer use ordinance enactment.

(47) "Shall" is mandatory; "May" is permissive.

(48) "Significant industrial user." The term "significant industrial user" means:

(a) All industrial users subject to categorical pretreatment standards under 40 CFR § 403.6 and 40 CFR chapter I, subchapter N; and

(b) Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, on-contact cooling and

boiler blow down wastewater); contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR § 403.12(b) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR § 403.8(f)(6)).

(49) "Significant non-compliance." Per 40 CFR § 403.8(f)(2)vii:

(a) "Chronic violations of wastewater discharge limits," defined herein as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceeds (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(b) "Technical Review Criteria (TRC) violations," defined herein as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for 800, TSS fats, oils and grease, and 1.2 for all other pollutants except pH).

(c) Any other violation of a pretreatment effluent limit (daily maximum of longer-term average) 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).

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR § 403.8 (f)(1)(vi)(8) to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to provide, within thirty (30) days after their due date, required reports, such as baseline monitoring reports, ninety (90) day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules.

(g) Failure to accurately report non-compliance.

(h) Any other violation or group of violations which the control authority determines will adversely affect the operation of implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceeds limits for a time period greater than fifty (50) minutes or exceeds limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(50) "Slug." Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 18-207 of this chapter or any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

(51) "Standard Industrial Classification (SIC)." A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1972.

(52) "State." The State of Tennessee.

(53) "Storm sewer or storm drain." A pipe or conduit which carries storm and surface waters and drainage, but excludes sewage and industrial wastes. It may, however, carry cooling waters and unpolluted waters, upon approval of the superintendent.

(54) "Stormwater." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(55) "Superintendent." The local administrative officer or person designated by him to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(56) "Suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids and that is removable by laboratory filtering.

(57) "Toxic pollutant." Any pollutant or combination of pollutants listed as toxic in regulations published by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts.

(58) "Twenty-four (24) hour flow proportional composite sample." A sample consisting of several sample portions collected during a twenty-four (24) hour period in which the portions of a sample are proportioned to the flow and combined to form a representative sample.

(59) "User." Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

(60) "Wastewater." The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

(61) "Wastewater treatment systems." Defined the same as "POTW."

(62) "Waters of the state." All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and other bodies of accumulation of water, surface or underground, natural or artificial, public or private, that are contained within, flow through, or border upon the state or any portion thereof. (Ord. #80, April 2011, modified)

18-203. <u>Connection to public sewers</u>. (1) <u>Requirements for proper wastewater disposal</u>. (a) It shall be unlawful for any person to

place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(b) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter.

(c) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

(d) Except as provided in § 18-203(1)(e) below, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of the chapter, within sixty (60) days after date of official notice to do so; provided that said public sewer is within five hundred feet (500') of the property line over public access.

(e) The owner of a manufacturing facility may discharge wastewater to the waters of the state; provided that he obtains an NPDES permit and meets all requirements of the Federal Clean Water Act, the NPDES permit, and any other applicable local, state, or federal statutes and regulations.

(f) Where a public sanitary sewer is not available under the provisions of § 18-203(1)(d) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this chapter.

(2) Physical connection to public sewer. (a) No person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof. The city shall make all connections to the public sewer upon the property owner first submitting a connection application from the superintendent as required by § 18-208 of this chapter.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A connection fee shall be paid to the city at the time the application is filed.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(c) 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 private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer.

(d) Old building sewers may be used in connection with new buildings only when they are found on examination and tested by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewers shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows:

(A) Conventional sewer system - four inches (4").

(B) Low pressure sewer - one and one quarter inches (1-1/4").

(ii) The minimum depth of a building sewer shall be eighteen inches (18").

(iii) Building sewers shall be laid on the following grades:

(A) Four inch (4") sewers - one-eight inch (1/8") per foot.

(B) Larger building sewers shall be laid on a grade that will produce a velocity when flowing full of at least two feet (2') per second.

(iv) Slope and alignment of all building sewers shall be neat and regular.

(v) Building sewers shall be constructed only of ductile iron pipe class 50 or above or polyvinyl chloride pipe schedule 40 or and SDR-21 or greater. Joints shall be rubber or neoprene "0" ring compression joints or solvent welded. No other joints shall be acceptable.

(vi) A cleanout shall be located five feet (5') outside of the building, one (1) as it crosses the property line and one (1) at each change of direction of the building sewer which is greater than forty-five (45) degrees.

Additional cleanouts shall be placed not more than seventy-five feet (75') apart in horizontal building sewers of six inch (6") nominal diameter and not more than one hundred feet (100') apart for larger pipes. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed. A "Y" (wye) and one-eighth (1/8) bend shall be used for the cleanout base. Cleanouts shall not be smaller than four inches (4").

(vii) Connections of building sewers to the public sewer system shall be made only by the city and shall be made at the appropriate existing wyes 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 services shall be made by removing a length of pipe and replacing it with a wye or tee fitting using flexible neoprene adapters with stainless steel bands of a type approved by the superintendent. All such connections shall be made gastight and watertight.

(viii) The building sewer may be brought into the building below the basement floor when gravity flow from the building to the sanitary sewer is at a grade of one-eighth inch (1/8") per foot or more if possible. In cases where basement or floor levels are lower than the ground elevation at the point of connection to the sewer, adequate precautions by installation of check valves or other backflow prevention devices to protect against flooding shall be provided by the owner. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a step or grinder pump and discharged to the building sewer at the expense of the owner, pursuant to § 18-204.

(ix) The methods to be used in excavating, placing of pipe jointing, testing, backfilling the trench, or other activities in the construction of a building sewer which have not been described above shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of HUB or to the procedures set forth in appropriate specifications of the ASTM and *Water Environment Federation Manual of Practice FD-S*. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(x) An installed building sewer shall be gastight and watertight.

(f) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

(g) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, basement drains, sump pumps, or other sources of surface runoff or groundwater to a building directly or indirectly to a public sanitary sewer.

(h) Inspection of connections. (i) The sewer connection and all building sewers from the building to the public sewer main line shall be

inspected before the underground portion is covered, by the superintendent or his authorized representative.

(ii) The applicant for discharge shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(3) Maintenance of building sewers. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow stormwater to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(4) Sewer extensions. All expansion or extension of the public sewer constructed by property owners or developers must follow policies and procedures developed by the city. In the absence of policies and procedures, the expansion or extension of the public sewer must be approved in writing by the superintendent or manager of the wastewater collection system. All plans and construction must follow the latest edition of *Tennessee Design Criteria for Sewage Works*. Contractors must provide the superintendent or manager with documentation that all mandrel, pressure and vacuum tests as specified in the design criteria were acceptable prior to use of the lines. A contractor's one (1) year warranty period begins with occupancy or first permanent use of the lines. Contractors are responsible for all maintenance and repairs during the warranty period and final inspections as specified by the superintendent or manager. The superintendent or manager must give written approval to the contractor to acknowledge transfer of ownership to the city. Failure to construct or repair lines to acceptable standards could result in denial or discontinuation of sewer service. (Ord. #80, April 2011, modified)

18-204. Grinder pump wastewater systems. When connection of building sewers to the public sewer by gravity flow lines is impossible due to elevation differences or other encumbrances, Grinder Pump (GP) systems may be installed subject to the regulations of the city.

(1) Equipment requirements. Pumps must be approved by the city and shall be maintained by the city.

(2) Installation requirements. Location of pumps and effluent lines shall be subject to the approval of the city. Installation shall follow design criteria for GP systems as provided by the superintendent.

(3) Costs. GP equipment for new construction shall be purchased and installed at the developer's, homeowner's, or business owner's expense according to the specification of the city and connection will be made to the city sewer only after inspection and approval of the city.

(4) Ownership and easements. Homeowners or developers shall provide HUB with ownership and an easement. Access by the city to the GP system must be guaranteed to operate, maintain, repair, and restore service. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of GP systems. (a) Home or business owners shall follow the GP users guide provided by the superintendent.

(b) Home or business owners shall provide an electrical connection that meets specifications and shall provide electrical power.

(c) Home or business owners shall be responsible for maintenance drain lines from the building to the GP tank.

(d) Prohibited uses of the GP system.

(i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Discharge of pet hair, lint, or home vacuum water.

(iv) Discharge of fats, grease, and oil.

(6) Additional charges. The city shall be responsible for maintenance of the GP equipment. Repeat service calls for identical problems shall be billed to the homeowner or business at a rate of no more than the actual cost of the service call. (Ord. #80, April 2011)

18-205. Regulation of holding tank waste disposal or trucked in waste. (1) Permit. No person, firm, association or corporation shall clean out, drain, or flush any septic tank or any other type of wastewater or excreta disposal system, unless such person, firm, association, or corporation obtains a permit from the city to perform such acts or services. Any person, firm, association, or corporation desiring a permit to perform such services shall file an application on the prescribed form. Upon any such application, said permit shall be issued by the superintendent when the conditions of this chapter have been met and providing the superintendent is satisfied the applicant has adequate and proper equipment to perform the services contemplated in a safe and competent manner. Such permits shall be limited to the discharge of domestic sewage waste containing no industrial waste.

(2) Fees. For each permit issued under the provisions of this chapter, the applicant shall agree in writing by the provisions of this section and pay an annual service charge to the city to be set as specified in § 18-211. Any such permit granted shall be for one (1) fiscal year or fraction of the fiscal year, and shall continue in full force and effect from the time issued until the ending of the fiscal year, unless sooner revoked, and shall be nontransferable. The number of the permits granted hereunder shall be plainly painted in three inch (3") permanent letters on each side of each motor vehicle used in the conduct of the business permitted hereunder.

(3) Designated disposal locations. The superintendent shall designate approved locations for the emptying and cleansing of all equipment used in the performance of the services rendered under the permit herein provided for, and it shall be a violation hereof for any person, firm, association or corporation to empty or clean such equipment at any place other than a place so designated. The superintendent may refuse to accept any truckload of waste at his absolute discretion where it appears that the waste could interfere with the operation of the POTW.

(4) Revocation of permit. Failure to comply with all the provisions of this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of servicing a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the city.

(5) Trucked in waste. No waste material or cleaning waste will be allowed from trucks, railcars, barges, etc., or temporally pumped waste without written approval by the superintendent. This approval may require testing, flow monitoring and recordkeeping or the issuance of an industrial pretreatment permit. (Ord. #80, April 2011)

18-206. Wastewater collection regulations. Users of the city's wastewater collection system are subject to the provisions of this chapter, including any amendments hereto, as well as the regulations, as the same may from time to time be amended, adopted by the Claiborne Utility District which provides collection and treatment of wastewater for the city. Any violation of either this chapter as amended or the regulations of Claiborne Utility District will subject the violator to the sanctions of this chapter. (Ord. #80, April 2011)

18-207. Discharge regulations. (1) General discharge prohibitions. No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation and performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. Violations of these general and specific prohibitions or the provisions of § 18-207 may result in the issuance of an industrial pretreatment permit, surcharges, discontinuance of water and/or sewer service and other fines and provisions of § 18-210. A user may not contribute the following substances to any POTW:

(a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other

way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over twenty percent (20%) of the Lower Explosive Limit (LEL) of the meter. Prohibited flammable materials including, but not limited to, waste streams with a closed cap flash point of less than one thousand four hundred degrees Fahrenheit (1,400ºF) or six hundred degrees Celsius (600ºC) using the test methods specified in 40 CFR § 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromate, carbides, hydrides and sulfides and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.

(b) Any wastewater having a pH less than 5.5 or higher than 9.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(c) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, waste from animal slaughter, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, mud, or glass grinding or polishing wastes.

(d) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.

(e) 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.

(f) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(g) Any wastewater containing any toxic pollutants, chemical elements, or compounds in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans, including wastewater plant and collection system operators, or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act, being 33 U.S.C. § § 1317.

(h) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(i) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, 40 CFR part 503, guidelines, or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(j) Any substances which will cause the POTW to violate its NPDES permit or the receiving water quality standards.

(k) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving stream water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(l) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty degrees Celsius (40°C) or one hundred four degrees Fahrenheit (104°F).

(m) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting a "slug" as defined herein.

(n) Any waters containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(o) Any wastewater which causes a hazard to human life or creates a public nuisance.

(p) Any waters or wastes containing fats, wax, grease, or oil, whether emulsified or not, which cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plant.

(q) Any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent and the Tennessee Department of Environment and Conservation. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent and the Tennessee Department of Environment and Conservation to a storm sewer or natural outlet.

(2) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Appendix A - Plant-Protection Criteria, unless specifically allowed by their discharge permit local limits (Appendix B - Local Discharge Limits). Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

(3) Fats, oils and grease traps and interceptors. (a) Fat, Oil and Grease (FOG), waste food, and sand interceptors. FOG, waste food and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing fats, oils, and grease, any flammable wastes, ground food wasteland, soil, and solids, or other harmful ingredients in excessive amount which impacts the wastewater collection system. Such interceptors shall not be required for single-family residences, but may be required on multiple-family residences. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Fat, oil, grease, and food waste. (i) New construction and renovation. Upon construction or renovation, all restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall submit a FOG and food waste control plan that will effectively control the discharge of FOG and food waste.

(ii) Existing structures. All existing restaurants, cafeterias, hotels, motels, hospitals, nursing homes, schools, grocery stores, prisons, jails, churches, camps, caterers, manufacturing plants and any other sewer users who discharge applicable waste shall be required to submit a plan for control of FOG and food waste if and when the superintendent determines that FOG and food waste are causing excessive loading, plugging, damage or potential problems to structures or equipment in the public sewer system.

(iii) Implementation of plan. After approval of the FOG plan by the superintendent, the sewer user must:

(A) Implement the plan within a reasonable amount of time.

(B) Service and maintain the equipment in order to prevent adverse impact upon the sewer collection system and treatment facility. If in the opinion of the superintendent, the user continues to impact the collection system and treatment plan, additional pretreatment may be required, including a requirement to meet numeric limits and have surcharges applied.

(C) Sand, soil, and oil interceptors. All car washes, truck washes, garages, service stations and other sources of sand, soil, and oil shall install effective sand, soil, and oil interceptors. These interceptors shall be sized to effectively remove sand, soil, and oil at the expected flow rates. The interceptors shall be cleaned on a regular basis to prevent impact upon the wastewater collection and treatment system. Owners whose interceptors are deemed to be ineffective by the superintendent may be asked to change the cleaning frequency or to increase the size of the interceptors. Owners or operators of washing facilities will prevent the inflow of rainwater into the sanitary sewers.

(D) Laundries. Commercial laundries shall be equipped with an interceptor with a wire basket or similar device, removable for cleaning, that prevents passage into the sewer system of solids one-half inch (1/2") or larger in size such as strings, rags, buttons, or other solids detrimental to the system.

(E) Control equipment. The equipment of facilities installed to control FOG, food waste, sand and soil must be designed in accordance with the *Standard Plumbing Code* and Tennessee Department of Environment and Conservation engineering standards. Underground equipment shall be tightly sealed to prevent inflow of rainwater and easily accessible to allow regular maintenance. Control equipment shall be maintained by the owner or operator of the facility so as to prevent a stoppage of the public sewer, and the accumulation of FOG in the lines, pump stations and treatment plant. If the city is required to clean out the public sewer lines as a result of a stoppage resulting from poorly maintained control equipment, the property owner shall be required to refund the labor, equipment, materials and overhead costs to the city. Nothing in this subsection shall be construed to prohibit or restrict any other remedy the city has under this chapter, or state or federal law. The city retains the right to inspect and approve installation of control equipment.

(F) The superintendent may use industrial wastewater discharge permits under § 18-206 to regulate the discharge of fat, oil and grease.

(4) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Appendix A - Plant Protection Criteria. Industrial users shall be subject to reporting and monitoring requirements regarding these parameters as set forth

in this chapter. In the event that the influent at the POTW reaches or exceeds the levels established by Appendix A or subsequent criteria calculated as a result of changes in pass through limits issued by the Tennessee Department of Environment and Conservation, the pretreatment coordinator shall initiate technical studies to determine the cause of the influent violation and shall recommend to the city the necessary remedial measures, including, but not limited to, recommending the establishment of new or revised pretreatment levels for these parameters. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that the POTW effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operation of the POTW.

Table C - Surcharge and Maximum Limits

Parameter	Surcharge Limit	Maximum Concentration
Ammonia-N	15	40
Oil and grease	50	100
BOD	300	1500
COD	400	2500
Suspended solids	300	600

(5) Federal categorical pretreatment standards. Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The pretreatment coordinator shall notify all affected users of the applicable reporting requirements under 40 CFR § 403.12.

(6) Right to establish more restrictive criteria. No statement in this chapter is intended or may be construed to prohibit the pretreatment coordinator from establishing specific wastewater discharge criteria more restrictive where wastes are determined to be harmful or destructive to the facilities of the POTW or to create a public nuisance, or to cause the discharge of the POTW to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the POTW resulting in a violation of the NPDES permit, or to exceed industrial pretreatment standards for discharge to municipal wastewater treatment systems as imposed or as may be imposed by the Tennessee Department of Environment and Conservation and/or the United States Environmental Protection Agency.

(7) Accidental discharges. (a) Protection from accidental discharge. All industrial users shall provide such facilities and institute

such procedures as are reasonably necessary to prevent or minimize the potential for accidental discharge into the POTW of waste regulated by this chapter from liquid or raw material storage areas, from truck and rail car loading and unloading areas, from in-plant transfer or processing and materials handling areas; and from diked areas or holding ponds of any waste regulated by this chapter. Detailed plans showing the facilities and operating procedures shall be submitted to the pretreatment coordinator before the facility is constructed. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility to provide the protection necessary to meet the requirements of this chapter.

(b) Notification of accidental discharge. Any person causing or suffering from any accidental discharge shall immediately notify the pretreatment coordinator in person, or by the telephone, to enable counter measures to be taken by the pretreatment coordinator to minimize damage to the POTW, the health and welfare of the public, and the environment.

This notification shall be followed, within five (5) days of the date of occurrence, by a detailed written statement describing the cause of the accidental discharge and the measures being taken to prevent future occurrence.

Such notification shall not relieve the user of liability for any expense, loss, or damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or state or federal law.

(c) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. In lieu of placing notices on bulletin boards, the users may submit an approved SPIC.

Each user shall annually certify to the pretreatment coordinator compliance with this subsection. (Ord. #80, April 2011, modified)

18-208. Application for domestic wastewater connection and industrial wastewater discharge permits. (1) Application for discharge of domestic wastewater. All users or prospective users which generate domestic wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service. Connection to the city sewer shall not be made until the application is received and approved by the superintendent, the building sewer is installed in

accordance with § 18-201 of this chapter and an inspection has been performed by the superintendent or his representative.

The receipt by the city of a prospective customer's application for connection shall not obligate the city to render the connection. If the service applied for cannot be supplied in accordance with this chapter and the city's rules and regulations and general practice, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(2) Industrial wastewater discharge permits. (a) General requirements. All industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW.

All existing industrial users connected to or contributing to the POTW shall acquire a permit within one hundred eighty (180) days after the effective date of this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required to obtain a wastewater discharge permit shall complete and file with the pretreatment coordinator an application on a prescribed form accompanied by the appropriate fee. Existing users shall apply for a wastewater contribution permit within sixty (60) days after the effective date of this chapter, and proposed new users shall apply at least sixty (60) days prior to connecting to or contributing to the POTW.

(ii) The application shall be in the prescribed form of the city and shall include, but not be limited to, the following information: name, address, and SIC number of applicant; wastewater volume; wastewater constituents and characteristics, including, but not limited to, those mentioned in § 18-207(1) and (2); discharge variations - daily, monthly, seasonal and thirty (30) minute peaks; a description of all chemicals handled on the premises, each product produced by type, amount, process or processes and rate of production, type and amount of raw materials; number and type of employees, hours of operation, site plans, floor plans, mechanical and plumbing plans and details showing all sewers and appurtenances by size, location and elevation; a description of existing and proposed pretreatment and/or equalization facilities; and any other information deemed necessary by the pretreatment coordinator.

(iii) Any user who elects or is required to construct new or additional facilities for pretreatment shall, as part of the application for a wastewater discharge permit, submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for

approval. Plans and specifications submitted for approval must bear the seal of a professional engineer registered to practice engineering in the State of Tennessee. A wastewater discharge permit shall not be issued until such plans and specifications are approved. Approval of such plans and specifications shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter.

(iv) If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards, the application shall include the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. For the purpose of this subsection (2)(b)(iv), "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by § 18-207 of this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application f or a wastewater discharge permit shall not obligate the city to render the wastewater collection and treatment service. If the service applied for cannot be supplied in accordance with this chapter or the city's rules and regulations and general practice, the application shall be rejected and there shall be no liability of the city to the applicant of such service.

(vii) The pretreatment coordinator will act only on applications containing all the information required in this section. Persons who have filed incomplete applications will be notified by the pretreatment coordinator that the application is deficient and the nature of such deficiency and will be given thirty (30) days to correct the deficiency. If the deficiency is not corrected within thirty (30) days or within such extended period as allowed by the local administrative officer, the local administrative officer shall deny the application and notify the applicant in writing of such action.

(c) Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city and the Claiborne Utility Board.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limitations on volume, concentration, and time of discharge, based on 40 CFR part 403, categorical standards, local limits, and state and local law;

(D) Self-monitoring, sampling, reporting, notification, record keeping, identification of pollutants to be monitored, sampling location, sampling frequency, and sample type;

(E) Statement of applicable civil and criminal penalties for violations of pretreatment standards and the requirements of any applicable compliance schedule. Such schedules shall not extend the compliance date beyond the applicable federal deadlines; and

(F) Prohibition of bypassing pretreatment or pretreatment equipment.

(ii) Additionally, permits may contain the following:

(A) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;

(B) Requirements for installation and maintenance of inspections and sampling facilities;

(C) Compliance schedules;

(D) Requirements for submission of technical reports or discharge reports;

(E) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto;

(F) Requirements for notification of the city sixty (60) days prior to implementing any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, and of any changes in industrial processes that would affect wastewater quality or quantity;

(G) Requirements for notification of slug discharged and spill control plan;

(H) Effluent mass loading restrictions; and

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) Permit revision. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. A user with an existing wastewater discharge permit shall submit to the pretreatment coordinator within one hundred eighty

(180) days after the promulgation of an applicable federal categorical pretreatment standard the information required by § 18-208(2)(b)(ii) and (iii).

(e) Permit modification. The terms and conditions of the permit may be subject to modification by the pretreatment coordinator during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in this permit at least thirty (30) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rule must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permits duration. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(g) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city and CUD. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. The permit holder must provide the new owner with a copy of the current permit.

(h) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclosefully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges; and/or

(C) Addition or change in process lines generating wastewater.

(iv) Intentional failure of a user to accurately report the discharge constituents and characteristics or to report significant changes in plant operations or wastewater characteristics.

(3) Confidential information. All information and data on a user obtained from reports, questionnaire, permit application, permits and monitoring programs and from inspection shall be available to the public or any governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the pretreatment coordinator that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets of the users.

When requested by the person furnishing the report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use related to this chapter or the HUB's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the pretreatment coordinator as confidential shall not be transmitted to any governmental agency or to the general public by the pretreatment coordinator until and unless prior and adequate notification is given to the user. (Ord. #80, April 2011)

18-209. Industrial user monitoring, inspection reports, records access and safety. (1) Monitoring facilities. The installation of a monitoring facility shall be required for all industrial users. A monitoring facility shall be a manhole or other suitable facility approved by the pretreatment coordinator.

When in the judgment of the pretreatment coordinator, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the pretreatment coordinator may require that separate monitoring facilities be installed for each separate source of discharge.

Monitoring facilities that are required to be installed shall be constructed and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewater produced by a user. If sampling or metering equipment is also required by the pretreatment coordinator, it shall be provided and installed at the user's expense.

The monitoring facility will normally be required to be located on the user's premises outside of the building. The pretreatment coordinator may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street right-of-way with the approval of the public agency having jurisdiction of that right-of-way and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility,

sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the user.

(2) Inspection and sampling. The city and/or CUD may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the city or CUD, or their representative, ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination or in the performance of any of their duties. The city or CUD, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the HUB, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(3) Compliance date report. Within one hundred eighty (180) days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the pretreatment coordinator a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operations and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user, and certified to by a professional engineer registered to practice engineering in Tennessee.

(4) Periodic compliance reports. (a) Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the pretreatment coordinator by the end of the months of March and September, or according to permit requirements, unless required more frequently in the pretreatment standard or by the pretreatment coordinator, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards and requirements. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow. At the discretion of the

pretreatment coordinator and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the pretreatment coordinator may agree to alter the months during which the above reports are to be submitted.

(b) The pretreatment coordinator may impose mass limitations on users where the imposition of mass limitations are appropriate. In such cases, the report required by subsection (4)(a) shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(c) The reports required by this section shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the pretreatment coordinator of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the wastewater discharge permit or the pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR part 136, and amendments thereto. Sampling shall be performed in accordance with techniques approved by the administrator.

(5) Maintenance of records. Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such records shall include for all samples:

(a) The date, exact place, method, and time of sampling and the names of the persons taking the samples;

(b) The dates analyses were performed;

(c) Who performed the analyses;

(d) The analytical techniques/methods used; and

(e) The results of such analyses.

Any industrial user subject to the reporting requirement established in this section shall be required to retain for a minimum of three (3) years all records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the pretreatment coordinator, Director of the Division of Water Pollution Control, Tennessee Department of Environment and Conservation or the Environmental Protection Agency. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when requested by the pretreatment coordinator, the approval authority, or the Environmental Protection Agency.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city or CUD shall observe all safety rules applicable to the premises established by the company and the company shall beheld harmless for injury or death to the city

or CUD employees, and the city or CUD shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the POTW shall have in full operation all pollution control equipment at the start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of the start up of the industrial process.

(8) Reporting violations. If sampling performed by the industrial user indicates effluent violations, the user must notify the pretreatment coordinator within hours of becoming aware of the violation and repeat the analysis within thirty (30) days of becoming aware of the violation, unless the POTW has monitored between the sample date and the day when the results of the violation were received, or if the POTW monitors at least once per month, or if the user is on a monthly sample schedule. (Ord. #80, April 2011)

18-210. Enforcement and abatement. (1) Complaints; notification of violation; orders.

(a) (i) Whenever the local administrative officer has reason to believe that a violation of any provision of the city or CUD pretreatment program, or of an order of the local hearing authority issued under it has occurred, is occurring, or is about to occur, the local administrative officer may cause a written complaint to be served upon the alleged violator or violators.

(ii) The complaint shall specify the provision or provisions of the pretreatment program or order alleged to be violated or about to be violated and the facts alleged to constitute a violation, may order that necessary corrective action be taken within a reasonable time to be prescribed in the order, and shall inform the violators of the opportunity for a hearing before the local hearing authority.

(iii) Any such order shall become final and not subject to review unless the alleged violators request by written petition a hearing before the local hearing authority as provided in § 18-210(2), no later than thirty (30) days after the date the order is served; provided, that the local hearing authority may review the final order as provided in *Tennessee Code Annotated*, § 69-3-123(a)(3).

(iv) Notification of violation. Notwithstanding the provisions of subsections (1)(a)(i) through (1)(a)(iii), whenever the pretreatment coordinator finds that any user has violated or is violating this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirements, the

HUB or its agent may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of this notice, the user shall submit to the pretreatment coordinator an explanation of the violation and a plan for its satisfactory correction and prevention, including specifications. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section limits the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(b) (i) When the local administrative officer finds that a user has violated or continues to violate this chapter, wastewater discharge permits, any order issued hereunder, or any other pretreatment standard or requirement, he may issue one (1) of the following orders. These orders are not prerequisite to taking any other action against the user.

(A) Compliance order. An order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the specified time, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order does not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation.

(B) Cease and desist order. An order to the user directing it to cease all such violations and directing it to immediately comply with all requirements and take needed remedial or preventive action to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(C) Consent order. Assurances of voluntary compliances or other documents establishing an agreement with the user responsible for non-compliance, including specific action to be taken by the user to correct the non-compliance within a time period specified in the order.

(D) Emergency order. (1) Whenever the local administrative officer finds that an emergency

exists imperatively requiring immediate action to protect the public health, safety, or welfare, the health of animals, fish or aquatic life, a public water supply, or the facilities of the POTW, the local administrative officer may, without prior notice, issue an order reciting the existence of such an emergency and requiring that any action be taken as the local administrative officer deems necessary to meet the emergency.

(2) If the violator fails to respond or is unable to respond to the order, the local administrative officer may take any emergency action, as the local administrative officer deems necessary, or contract with a qualified person or persons to carry out the emergency measures. The local administrative officer may assess the person or persons responsible for the emergency condition for actual costs incurred by the city or CUD in meeting the emergency.

(ii) Appeals from orders of the local administrative officer.

(A) Any user affected by any order of the local administrative officer in interpreting or implementing the provisions of this chapter may file with the local administrative officer a written request for reconsideration within thirty (30) days of the order, setting forth in detail the facts supporting the user's request for reconsideration.

(B) If the ruling made by the local administrative officer is unsatisfactory to the person requesting reconsideration, he may, within thirty (30) days, file a written petition with the local hearing authority as provided in subsection (2). The local administrative officer's order shall remain in effect during the period of reconsideration.

(C) Except as otherwise expressly provided, any notice, complaint, order, or other instrument issued by or under authority of this section may be served on any named person personally, by the local administrative officer or any person designated by the local administrative officer, or service may be made in accordance with Tennessee statutes authorizing service of process in civil action. Proof of service shall be filed in the office of the local administrative officer.

(2) Hearings. (a) Any hearing or rehearing brought before the local hearing authority shall be conducted in accordance with the following:

(i) Upon receipt of a written petition from the alleged violator pursuant to this subsection (2), the local administrative officer shall give the petitioner thirty (30) days' written notice of the time and place of the hearing, but in no case shall the hearing be held more than sixty (60) days from the receipt of the written petition, unless the local administrative officer and the petitioner agree to a postponement;

(ii) The hearing may be conducted by the local hearing authority at a regular or special meeting. A quorum of the local hearing authority must be present at the regular or special meeting to conduct the hearing;

(iii) A verbatim record of the proceedings of the hearings shall be taken and filed with the local hearing authority, together with the findings of fact and conclusions of law made under subsection (2)(a)(vi). The recorded transcript shall be made available to the petitioner or any party to a hearing upon payment of a charge set by the local administrative officer to cover the costs of preparation;

(iv) In connection with the hearing, the chair shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under this section, the Chancery Court of Claiborne County has jurisdiction upon the application of the local hearing authority or the local administrative officer to issue an order requiring the person to appear and testify or produce evidence as the case may require, and any failure to obey an order of the court may be punished by such court as contempt;

(v) Any member of the local hearing authority may administer oaths and examine witnesses;

(vi) On the basis of the evidence produced at the hearing, the local hearing authority shall make findings of fact and conclusions of law and enter decisions and orders that, in its opinion, will best further the purposes of the pretreatment program. It shall provide written notice of its decisions and orders to the alleged violator. The order issued under this subsection (2)(a)(vi) shall be issued by the person or persons designated by the chair no later than thirty (30) days following the close of the hearing;

(vii) The decision of the local hearing authority becomes final and binding on all parties unless appealed to the courts as provided in subsection (2)(b); and

(viii) Any person to whom an emergency order is directed under § 18-210(1) shall comply immediately, but on petition to the local hearing authority will be afforded a hearing as soon as possible. In no case will the hearing be held later than three (3) days from the receipt of the petition by the local hearing authority.

(b) An appeal may be taken from any final order or other final determination of the local hearing authority by any party who is or may be adversely affected, including the pretreatment agency. Appeal must be made to the chancery court under to the common law writ of certiorari set out in *Tennessee Code Annotated*, § 27-8-101, within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (2)(a) or (2)(b), the pretreatment coordinator may order any user that causes or contributes to violation(s) of this chapter, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirements, to appear before the local administrative officer and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for the action, and a request that the user show cause why the proposed enforcement action should be taken. The notice of the meeting shall be served personally, or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. The notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be prerequisite for taking any other action against the user. A show cause hearing may be requested by the discharger prior to revocation of a discharge permit or termination of service.

(3) <u>Violations and administrative civil penalty</u>.

(a) (i) Any person including, but not limited to, industrial users, who does any of the following acts or omissions is subject to a civil penalty of up to ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs:

(A) Unauthorized discharge, discharging without a permit;

(B) Violates an effluent standard or limitation;

(C) Violates the terms or conditions of a permit;

(D) Fails to complete a filing requirement;

(E) Fails to allow or perform an entry, inspection, monitoring or reporting requirement;

(F) Fails to pay user or cost recovery charges; or

(G) Violates a final determination or order of the local hearing authority or the local administrative officer.

(ii) Any administrative civil penalty must be assessed in the following manner:

(A) The local administrative officer may issue an assessment against any person or industrial user responsible for the violation;

(B) Any person or industrial user against whom an assessment has been issued may secure a review of the assessment by filing with the local administrative officer a written petition setting forth the grounds and reasons for the violator's objections and asking for a hearing in the matter involved before the local hearing authority and, if a petition for review of the assessment is not filed within thirty (30) days after the date the assessment is served, the violator is deemed to have consented to the assessment and it becomes final;

(C) Whenever any assessment has become final because of a person's failure to appeal the assessment, the local administrative officer may apply to the appropriate court for a judgment and seek execution of the judgment, and the court, in such proceedings, shall treat a failure to appeal the assessment as a confession of judgment in the amount of the assessment;

(D) In assessing the civil penalty, the local administrative officer may consider the following factors:

(1) Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;

(2) Damages to the pretreatment agency, including compensation for the damage or destruction of the facilities of the publicly owned treatment works, and also including any penalties, costs and attorneys' fees incurred by the pretreatment agency as the result of the illegal activity, as well as the expenses involved in enforcing this section and the costs involved in rectifying any damages;

(3) Cause of the discharge or violation;

(4) The severity of the discharge and its effect upon the facilities of the publicly owned treatment works and upon the quality and quantity of the receiving waters;

(5) Effectiveness of action taken by the violator to cease the violation;

(6) The technical and economic reasonableness of reducing or eliminating the discharge; and

(7) The economic benefit gained by the violator.

(E) The local administrative officer may institute proceedings for assessment in the chancery court of the county in which all or part of the pollution or violation occurred in the name of the pretreatment agency.

(iii) The local hearing authority may establish by regulation a schedule of the amount of civil penalty which can be assessed by the local administrative officer for certain specific violations or categories of violations.

(iv) Assessments may be added to the user's next scheduled sewer service charge and the local administrative officer shall have such other collection remedies as may be available for other service charges and fees.

(b) Any civil penalty assessed to a violator pursuant to this section may be in addition to any civil penalty assessed by the commissioner for violations of *Tennessee Code Annotated*, § 69-3-115(a)(1)(F). However, the sum of penalties imposed by this section and by *Tennessee Code Annotated*, § 69-3-115(a), shall not exceed ten thousand dollars ($10,000.00) per day for each day during which the act or omission continues or occurs.

(4) Assessment for non-compliance with program permits or orders. (a) The local administrative officer may assess the liability of any polluter or violator for damages to the HUB resulting from any person's or industrial user's pollution or violation, failure, or neglect in complying with any permits or orders issued pursuant to the provisions of the pretreatment program or this section.

(b) If an appeal from such assessment is not made to the local hearing authority by the polluter or violator within thirty (30) days of notification of such assessment, the polluter or violator shall be deemed to have consented to the assessment, and it shall become final.

(c) Damages may include any expenses incurred in investigating and enforcing the pretreatment program or this section, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.

(d) Whenever any assessment has become final because of a person's failure to appeal within the time provided, the local administrative officer may apply to the appropriate court for a judgment, and seek execution on the judgment. The court, in its proceedings, shall

treat the failure to appeal the assessment as a confession of judgment in the amount of the assessment.

(5) Judicial proceedings and relief. The local administrative officer may initiate proceedings in the chancery court of the county in which the activities occurred against any person or industrial user who is alleged to have violated or is about to violate the pretreatment program, this section, or orders of the local hearing authority or local administrative officer. In the action, the local administrative officer may seek, and the court may grant, injunctive relief and any other relief available in law or equity.

(6) Termination of discharge. In addition to the revocation of permit provisions in § 18-208(2)(h) of this chapter, any user that violates the following conditions, wastewater discharge permits, or orders issued hereunder, is subject to termination of their wastewater discharge:

(a) Violation of wastewater discharge permit conditions.

(b) Failure to accurately report the wastewater constituents and characteristics of its discharge.

(c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.

(d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling.

(e) Violation of the pretreatment standards in the general discharge prohibitions in § 18-207 of this chapter.

(f) Failure to properly submit an industrial waste survey when requested by the pretreatment coordination superintendent.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause, as provided in subsection (2)(c) above, why the proposed action should not be taken.

(7) Disposition of damage payments and penalties–special fund. All damages and/or penalties assessed and collected under the provisions of this section shall be placed in a special fund by the pretreatment agency and allocated and appropriated for the administration of its wastewater fund or combined water and wastewater fund.

(8) Levels of non-compliance. (a) Insignificant non-compliance. For the purpose of this guide, insignificant non-compliance is considered a relatively minor infrequent violation of pretreatment standards or requirements. These will usually be responded to informally with a phone call or site visit but may include a Notice of Violation (NOV).

(b) Significant non-compliance. (i) Chronic violations. Sixty-six percent (66%) or more of the measurements exceed the daily maximum limit or monthly average limit in a six (6) month period (any magnitude of exceedance).

(ii) Technical Review Criteria (TRC) violations. Thirty-three percent (33%) or more of the measurements are equal to or exceed the daily maximum limit or monthly average limit by

more than the applicable TRC in a six (6) month period. TRC = 1.4 for BOD, TSS, and oil and grease = 1.2 for all other pollutants except pH.

(iii) Any discharge of a pollutant that has caused imminent endangerment to human health or welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(iv) Violations of compliance schedule milestones contained in an administrative order by ninety (90) days or more after the scheduled date.

(v) Failure to provide reports for compliance schedules, self monitoring data, or categorical standards (baseline monitoring reports, ninety (90) day compliance reports, and periodic reports) within thirty (30) days from the due date.

(vi) Failure to accurately report non-compliance.

(vii) Any other violation or group of violations considered to be significant. Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (appendix D) and public notice of the significant violations. (Ord. #80, April 2011, modified)

18-211. Enforcement response guide table. (1) Purpose. The purpose of this chapter is to provide for the consistent and equitable enforcement of the provisions of this chapter.

(2) Enforcement response guide table. The applicable officer shall use the schedule found in appendix D to impose sanctions or penalties for the violation of this chapter. (Ord. #80, April 2011)

18-212. Application for sewer service. Any person desiring sewer service or who may be required to have sewer service shall complete an application to obtain sewer service on such form or forms as the city may from time to time require. (Ord. #80, April 2011)

18-213. Service contracts or contracts for service. The city shall enter into contracts for service with each customer containing provisions setting forth the terms and conditions of sewer service including, but not limited to, the payment of such fees, rates and charges as may be from time to time established by the city as well as procedures for enforcement of the provisions of the this chapter and the collection of the fees, rates and charges established by the city. (Ord. #80, April 2011)

18-214. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater collection system and CUD's wastewater treatment system including costs of

operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include, but are not limited to:

(a) Inspection fee and tapping fee;
(b) Fees for applications for discharge;
(c) Sewer use charges;
(d) Surcharge fees (see Table C in § 18-207);
(e) Industrial wastewater discharge permit fees;
(f) Fees for industrial discharge monitoring; and
(g) Other fees as the HUB may deem necessary.

(3) Fees for application for discharge. A fee may be charged when a user or prospective user makes application for discharge as required by § 18-208 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city at the time the application is filed.

(5) Sewer user charges[1]. The board of commissioners shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-208 of this chapter.

(7) Fees for industrial discharge monitoring. Fees may be collected from industrial users having pretreatment or other discharge requirements to compensate the HUB for the necessary compliance monitoring and other administrative duties of the pretreatment program.

(8) Administrative civil penalties. Administrative civil penalties shall be issued according to the following schedule. Violations are categorized in the Enforcement Response Guide Table (Appendix D). The local administrative officer may access a penalty within the appropriate range. Penalty assessments are to be assessed per violation unless otherwise noted.

Category 1	No penalty
Category 2	$50.00 - $500.00
Category 3	$500.00 - $1,000.00
Category 4	$1,000.00 - $5,000.00
Category 5	$5,000.00 - $10,000.00

[1]Such rates are reflected in administrative ordinances or resolutions, which are on record in the offices of the Harrogate Utility Department.

(9) Enforcement of the collection of charges and fees. To secure the payment of sewer service charges, the city may take the following action(s):

(a) Discontinue water service by means of a secondary meter.

(b) Charge interest on any delinquent charges at the maximum legal rate.

(c) Require of any customer a reasonable deposit in advance to ensure the payment of such sewer charges.

(d) Impose a lien on the property of the customer to secure payment of the sewer service charges.

(e) Bring an action ex contractu to collect all amounts due, including reasonable attorney's fees and costs. (Ord. #80, April 2011)

18-215. Validity. This chapter and its provisions shall be applicable for all service areas, regions, and sewage works under the jurisdiction of the city. (Ord. #80, April 2011)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER
1. GREENWAY PARK RULES AND REGULATIONS.
2. PUBLIC RECORDS.

CHAPTER 1

GREENWAY PARK RULES AND REGULATIONS

SECTION
20-101. Rules and regulations adopted.
20-102. Violations and penalty.

20-101. Rules and regulations adopted. The following rules and regulations are hereby adopted by the board of mayor and aldermen and may be amended from time to time by resolution of the board of mayor and aldermen. A copy of such rules and regulations shall be filed with the city recorder and will be available for citizen review. The mayor is authorized to post pertinent rules and regulations within the parks and greenway as he determines necessary.

(1) It is unlawful to remain in any park after the posted closing time, except when engaged in activities that are a part of the recreation programs approved by the City of Harrogate. Park or greenway hours are from 6:00 A.M. through 9:30 P.M., summer, and 6:00 A.M. through 6:00 P.M., winter.

(2) It is unlawful to possess or consume alcoholic beverages in any park or greenway.

(3) It is unlawful for any person to disobey rules and signs.

(4) It is unlawful for any vehicle with a gross weight of over thirty-two thousand (32,000) pounds or a maximum width of over one hundred two inches (102") to use the road in any park of the city. This rule shall not apply to city maintenance vehicles and emergency vehicles.

(5) It is unlawful in any manner to tease, annoy, disturb, molest, catch, injure or kill, throw any stone or missile of any kind at or strike with any stick or weapon, any animal, bird, or fowl.

(6) It is unlawful to perform the following activities in a park or greenway area unless specifically authorized by the City of Harrogate in writing. Such writing shall include a concession contract with the City of Harrogate:

(a) Operating a fixed or mobile concession or traveling exhibition.

(b) Soliciting, selling, offering for sale, peddling, hawking, or vending any goods or services.

(c) Advertising any goods or services other than the direct handling of written advertising handed to any one (1) person.

(d) Distributing any commercial circular notice, leaflet, pamphlet or printed material of any kind in any building. These facilities are not public fora or limited public fora and are designated solely to the specific purposes for which they are dedicated.

(e) Entering upon, using or traversing any portion of a park for commercial purpose.

(7) It is unlawful for any person to travel on a trail at a speed greater than is reasonable and prudent under the existing conditions and having regard to actual and potential hazards. In every event, speed shall be so controlled as may be necessary to avoid colliding with others who are complying with the law and using reasonable care. Travel at speeds in excess of fifteen (15) miles per hour on a walking/vehicle trail shall constitute in evidence a prima facie presumption that the person violated this section.

(8) It is unlawful for dogs or other animals to be allowed in the greenway or the park.

(9) It is unlawful to stay in the park or greenway when directed to leave by a City of Harrogate employee or official of the City of Harrogate, or any police officer.

(10) It is unlawful to remove, destroy, mutilate or deface any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, shrub, tree, fern, plant, flower, lighting system or sprinkling system or other property in the park or greenway.

(11) It is unlawful to throw any refuse, litter, broken glass, crockery, nails, shrubbery, trimmings, junk or advertising matter in the park or to deposit any such material therein, except in receptacles provided for such purposes.

(12) It shall be unlawful for any person to deposit any refuse brought from private property in receptacles located in the city park or greenway facilities. Nothing in this section is intended to prohibit the disposal of refuse generated from park use such as picnics, barbecues, lunches, etc.

(13) 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]

(14) It is unlawful to ride, park, or drive any motorcycle, motor vehicle, go-cart, ATV, four wheeler or three wheeler, land sailing device, horse or pony on, over, or through any park or greenway. Skateboards shall be allowed only in the skateboard park provided inside the city park.

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[1]Municipal code reference

Anti-noise regulations: § 11-202.

(15) It is unlawful to park a trailer, camper, or other vehicle for the purpose of remaining overnight.

(16) It is unlawful to build any fires in any park or greenway except in areas designated by the City of Harrogate.

(17) It is unlawful to use profane or abusive language or to conduct oneself in a manner that interferes with the reasonable use of the park or greenway. (2011 Code, § 20-101)

20-102. **Violations and penalty**. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense. (2011 Code, § 20-102)

CHAPTER 2

PUBLIC RECORDS

SECTION
20-201. Procedures regarding access to an inspection of public records.

20-201. Procedures regarding access to an inspection of public records. (1) Consistent with the Public Records Act of the State of Tennessee, personnel of the City of Harrogate shall provide full access and assistance in a timely and efficient manner to Tennessee residents who request access to public documents.

(2) Employees of the City of Harrogate shall protect the integrity and organization of public records with respect to the manner in which the records are inspected and copied. All inspections of records must be performed under the supervision of the records custodian or designee. All copying of public records must be performed by employees of the city, or, in the event that city personnel are unable to copy the records, by an entity or person designated by the records custodian.

(3) To prevent excessive disruptions of the work, essential functions, and duties of employees of the City of Harrogate, persons requesting inspection and/or copying of public records are requested to complete a records request form to be furnished by the city. If the requesting party refuses to complete a request form, a city employee shall complete the form with the information provided by the requesting party. Persons requesting access to open public records shall describe the records with specificity so that the records may be located and made available for public inspection or duplication, as provided in subsection (2) above. All requests for public records shall be directed to the records custodian.

(4) When records are requested for inspection or copying, the records custodian has up to seven (7) business days to determine whether the city can retrieve the records requested and whether the requested records contain any confidential information, and the estimated charge for copying based upon the number of copies and amount of time required. Within seven (7) business days of a request for records, the records custodian shall:

(a) Produce the records requested;

(b) Deny the records in writing, giving explanation for denial; or

(c) In the case of voluminous requests, provide, in writing, the requestor with an estimated time frame for production and an estimation of duplication costs.

(5) There is no charge assessed to a requester for inspecting a public record. Charges for physical copies of records, in accordance with the Office of Open Records Counsel (OORC) schedule of reasonable charges, are as follows:

(a) Standard 8-1/2" x 11" or 8-1/2" x 14" black and white copy - fifteen cents ($0.15) per page for each produced.

(b) Standard 8-1/2" x 11" or 8-1/2" x 14" color copy - fifteen cents ($0.15) per page for each produced.

(c) Accident reports - fifteen cents ($0.15) per page for each standard 8-1/2" x 11" or 8-1/2" x 14" black and white copy produced.

(d) Maps, plats, electronic data, audio discs, video discs, and all other materials shall be duplicated at actual costs to the city.

(6) Requests requiring less than one (1) hour of municipal employee labor for research, retrieval, redaction and duplication will not result in an assessment of labor charges to the requester. Employee labor in excess of one (1) hour may be charged to the requestor, in addition to the cost per copy, as provided in subsection (5). The city may require payment in advance of producing any request. Requests for copies of records may not be broken down to multiple requests for the same information in order to qualify for the first free hour.

(a) For a request requiring more than one (1) employee to complete, labor charges will be assessed based on the following formula: In calculating the charge for labor, a department head shall determine the number of hours each employee spent producing a request. The department head shall then subtract the one (1) hour threshold from the number of hours the highest paid employee(s) spent producing the request. The department head will then multiply total number of hours to be charged for the labor of each employee by that employee's hourly wage. Finally, the department head will add together the totals for all the employees involved in the request and that will be the total amount of labor that can be charged.

(b) When the total number of requests made by a requestor within a calendar month exceeds four (4), the requests will be aggregated, and the requestor shall be charged a fee for any and all labor that is reasonably necessary to produce the copies of the requested records after informing the requestor that the aggregation limit has been met. Request for items that are routinely released and readily accessible, such as agendas for current calendar month meetings and approved minutes from meetings held in the previous calendar month, shall not be counted in the aggregated requests.

(7) If the city is assessed a charge to retrieve the requested records from archives or any other entity having possession of requested records, the records custodian may assess the requestor the cost assessed to the city.

(8) Upon completion of a records request, the requestor may pick up the copies of records at the office of the records custodian. Alternatively, the requestor may choose to have the copies of records delivered via United States Postal Service; provided that the requestor pays all related expenses in advance.

(9) If the public records requested are frail due to age or other conditions, and copying of the records will cause damage to the original records, the requesting party may be required to make an appointment for inspection. (Ord. #92, Dec. 2013, modified)

APPENDIX

A. ETHICS PROVISIONS PROVIDED BY STATUTE APP-A-1
B. PURCHASING PROCEDURES APP-B-1
C. DRUG AND ALCOHOL TESTING POLICY APP-C-1
D. ENFORCEMENT RESPONSE PLAN TABLES APP-D-1

Appendix A

1. Campaign finance.

All candidates for the chief administrative office (mayor), any candidates who spend more than $500, and candidates for other offices that pay at least $100 a month are required to file campaign financial disclosure reports. Civil penalties of $25 per day are authorized for late filings. Penalties up to the greater of $10,000 or 15 percent of the amount in controversy may be levied for filings more than 35 days late. It is a Class E felony for a multicandidate political campaign committee with a prior assessment record to intentionally fail to file a required campaign financial report. Further, the treasurer of such a committee may be personally liable for any penalty levied by the Registry of Election Finance (T.C.A. § 2-10-101–118).

Contributions to political campaigns for municipal candidates are limited to:

a. $1,000 from any person (including corporations and other organizations);
b. $5,000 from a multicandidate political campaign committee;
c. $20,000 from the candidate;
d. $20,000 from a political party; and
e. $75,000 from multicandidate political campaign committees.

The Registry of Election Finance may impose a maximum penalty of $10,000 or 115 percent of the amount of all contributions made or accepted in excess of these limits, whichever is greater (T.C.A. § 2-10-301–310).

Each candidate for local public office must prepare a report of contributions that includes the receipt date of each contribution and a political campaign committee's statement indicating the date of each expenditure (T.C.A. § 2-10-105, 107).

Candidates are prohibited from converting leftover campaign funds to personal use. The funds must be returned to contributors, put in the volunteer public education trust fund, or transferred to another political campaign fund, a political party, a charitable or civic organization, educational institution, or an organization described in 26 U.S.C. 170(c) (T.C.A. § 2-10-114).

2. Conflicts of Interest.

Municipal officers and employees are permitted to have an "indirect interest" in contracts with their municipality if the officers or employees publicly acknowledge their interest. An indirect interest is any interest that is not "direct," except it includes a direct interest if the officer is the only supplier of

goods or services in a municipality. A "direct interest" is any contract with the official himself or with any business of which the official is the sole proprietor, a partner, or owner of the largest number of outstanding shares held by any individual or corporation. Except as noted, direct interests are absolutely prohibited (T.C.A. § 6-2-402, T.C.A. § 6-20-205, T.C.A. § 6-54-107–108, T.C.A. § 12-4-101–102).

3. Disclosure conflict of interests.

Conflict of interest disclosure reports by any candidate or appointee to a local public office are required under T.C.A. §§ 8-50-501 *et seq.* Detailed financial information is required, including the names of corporations or organizations in which the official or one immediate family member has an investment of over $10,000 or 5 percent of the total capital. This must be filed no later than 30 days after the last day legally allowed for qualifying as a candidate. As long as an elected official holds office, he or she must file an amended statement with the Tennessee Ethics Commission or inform that office in writing that an amended statement is not necessary because nothing has changed. The amended statement must be filed no later than January 31 of each year (T.C.A. § 8-50-504).

4. Consulting fee prohibition for elected municipal officials.

Any member or member-elect of a municipal governing body is prohibited under T.C.A. § 2-10-124 from "knowingly" receiving any form of compensation for "consulting services" other than compensation paid by the state, county, or municipality. Violations are punishable as Class C felonies if the conduct constitutes bribery under T.C.A. § 39-16-102. Other violations are prosecuted as Class A misdemeanors. A conviction under either statute disqualifies the offender from holding any office under the laws or Constitution of the State of Tennessee.

"Consulting services" under T.C.A. § 2-10-122 means "services to advise or assist a person or entity in influencing legislative or administrative action, as that term is defined in § 3-6-301, relative to the municipality or county represented by that official." "Consulting services" also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality represented by that official. "Consulting services" does not mean the practice or business of law in connection with representation of clients by a licensed attorney in a contested case action, administrative proceeding or rule making procedure;

"Compensation" does not include an "honorarium" under T.C.A. § 2-10-116, or certain gifts under T.C.A. § 3-6-305(b), which are defined and prohibited under those statutes.

The attorney general construes "Consulting services" to include advertising or other informational services that directly promote specific legislation or specifically target legislators or state executive officials. Advertising aimed at the general public that does not promote or otherwise attempt to influence specific legislative or administrative action is not prohibited. Op. Atty.Gen. No. 05-096, June 17, 2005.

5. Bribery offenses.

a. A person who is convicted of bribery of a public servant, as defined in T.C.A. § 39-16-102, or a public servant who is convicted of accepting a bribe under the statute, commits a Class B felony.

b. Under T.C.A. § 39-16-103, a person convicted of bribery is disqualified from ever holding office again in the state. Conviction while in office will not end the person's term of office under this statute, but a person may be removed from office pursuant to any law providing for removal or expulsion existing prior to the conviction.

c. A public servant who requests a pecuniary benefit for performing an act the person would have had to perform without the benefit or for a lesser fee, may be convicted of a Class E felony for solicitation of unlawful compensation under T.C.A. § 39-16-104.

d. A public servant convicted of "buying and selling in regard to offices" under T.C.A. § 39-16-105, may be found guilty of a Class C felony. Offenses under this statute relevant to public officials are selling, resigning, vacating, or refusing to qualify and enter upon the duties of the office for pecuniary gain, or entering into any kind of borrowing or selling for anything of value with regard to the office.

e. Exceptions to 1, 3, and 4, above include lawful contributions to political campaigns, and a "trivial benefit" that is "incidental to personal, professional, or business contacts" in which there is no danger of undermining an official's impartiality.

6. Official misconduct. official oppression, misuse of official information.

a. Public misconduct offenses under Tennessee Code Annotated § 39-16-401 through § 39-16-404 apply to officers, elected officials, employees,

candidates for nomination or election to public office, and persons performing a governmental function under claim of right even though not qualified to do so.

b. Official misconduct under Tennessee Code Annotated § 39-16-402 pertains to acts related to a public servant's office or employment committed with an intent to obtain a benefit or to harm another. Acts constituting an offense include the unauthorized exercise of official power, acts exceeding one's official power, failure to perform a duty required by law, and receiving a benefit not authorized by law. Offenses under this section constitute a Class E felony.

c. Under Tennessee Code Annotated § 39-16-403, "Official oppression," a public servant acting in an official capacity who intentionally arrests, detains, frisks, etc., or intentionally prevents another from enjoying a right or privilege commits a Class E felony.

d. Tennessee Code Annotated § 39-16-404 prohibits a public servant's use of information attained in an official capacity, to attain a benefit or aid another which has not been made public. Offenses under the section are Class B misdemeanors.

e. A public servant convicted for any of the offenses summarized in sections 2-4 above shall be removed from office or discharged from a position of employment, in addition to the criminal penalties provided for each offense. Additionally, an elected or appointed official is prohibited from holding another appointed or elected office for ten (10) years. At-will employees convicted will be discharged, but are not prohibited from working in public service for any specific period. Subsequent employment is left to the discretion of the hiring entity for those employees. Tennessee Code Annotated § 39-16-406.

7. Ouster law.

Some Tennessee city charters include ouster provisions, but the only general law procedure for removing elected officials from office is judicial ouster. Cities are entitled to use their municipal charter ouster provisions, or they may proceed under state law.

The judicial ouster procedure applies to all officers, including people holding any municipal "office of trust or profit." (Note that it must be an "office" filled by an "officer," distinguished from an "employee" holding a "position" that does not have the attributes of an "office.") The statute makes any officer subject to such removal "who shall knowingly or willfully misconduct himself in office, or who shall knowingly or willfully neglect to perform any duty enjoined upon such officer by any of the laws of the state, or who shall in any public place be in a state of intoxication produced by strong drink voluntarily taken, or who shall

engage in any form of illegal gambling, or who shall commit any act constituting a violation of any penal statute involving moral turpitude" (T.C.A. § 8-47-101).

T.C.A. § 8-47-122(b) allows the taxing of costs and attorney fees against the complainant in an ouster suit if the complaint subsequently is withdrawn or deemed meritless. Similarly, after a final judgment in an ouster suit, governments may order reimbursement of attorney fees to the officer targeted in a failed ouster attempt
(T.C.A. § 8-47-121).

The local attorney general or city attorney has a legal "duty" to investigate a written allegation that an officer has been guilty of any of the mentioned offenses. If he or she finds that "there is reasonable cause for such complaint, he shall forthwith institute proceedings in the Circuit, Chancery, or Criminal Court of the proper county." However, with respect to the city attorney, there may be an irreconcilable conflict between that duty and the city attorney's duties to the city, the mayor, and the rules of professional responsibility governing attorneys. Also, an attorney general or city attorney may act on his or her own initiative without a formal complaint (T.C.A. § 8-47-101–102). The officer must be removed from office if found guilty (T.C.A. § 8-47-120).

APPENDIX B

CITY OF HARROGATE

Purchasing Procedures

As designated in Ordinance No.31, adopted on June 18, 2002, the Mayor shall act as purchasing agent for the City, with power, except as set out in these procedures, to purchase materials, supplies, equipment, and services; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the City's business. All contracts, leases, and lease-purchase agreements extended beyond the end of any fiscal year must have prior approval of the governing body.

The purchasing agent shall have the authority to make purchases, leases, and lease-purchases of more than $1,000 and less than $10,000 singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require a minimum of two competitive bids or quotations, either verbal or written whenever possible prior to each purchase. Competitive bids or quotations for the purchase of items which cost less than $1,000 are desirable but not mandatory. All competitive bids or quotations received shall be recorded and maintained in the office of the city recorder for a minimum of two years after audit. Awards shall be made to the lowest responsible bidder.

A description of all projects and purchases, except as herein provided, which require the expenditure of city funds of $10,000 or more singly or in the aggregate during any fiscal year shall be prepared by the purchasing agent and submitted to the governing body for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the governing body may authorize the purchasing agent to advertise for bids or proposals. The award of purchases, leases, or lease-purchases of $10,000 or more shall be made by the governing body to the lowest responsible bidder.

Purchases amounting to $10,000 or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

- Sole source of supply or proprietary products as determined after complete search by the purchasing agent, with governing body approval.
- Emergency expenditures with subsequent approval of the governing body.
- Purchases from instrumentalities created by two or more cooperating governments.

- Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.
- Purchases, leases, or lease-purchases of real property.
- Purchases, leases, or lease-purchases, from any federal, state, or local government unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.
- Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.
- Purchases directed through or in conjunction with the state Department of General Services.
- Purchases from Tennessee state industries.
- Professional service contracts as provided in Tennessee Code Annotated 29-20-407.
- Tort Liability Insurance as provided in TCA 12-4-407.
- Purchases of perishable commodities.
- Professional services shall not be bid.

The purchasing agent shall be responsible for following these procedures and the Municipal Purchasing Law of 1983, as amended, including keeping and filing required records and reports, as if they were set out herein and made a part of hereof and within definitions of words and phrases from the law as herein defined.

The purchasing agent may use a city purchase order to outline the terms and conditions for a purchase. A sample purchase order is attached.

A Receiving Report, copy attached, must be matched to each purchase order prior to payment.

If the purchase is over the dollar limit, under no circumstances may multiple forms be used in an effort to avoid competitive bidding. Any variations in the purchase order and invoiced amount for purchases exceeding $10,000 shall be approved by the Board of Mayor and Aldermen.

Emergency purchases are to be made only when normal functions and operations of the City would be hampered by purchasing in the regular manner, or where property, equipment, or life are endangered through unexpected circumstances and materials, services, etc., and are needed immediately. If a tool breaks and the repair is needed immediately an emergency purchase may be necessary. If a city waits until the last minute to purchase a police vehicle, and needs it for tomorrow evening's shift, it may be poor management instead of an emergency.

A Summary of Bids Form should be used to record all bids. The form should be included in the information presented to the governing body for consideration of award of the bid. All bids should be opened in public at a specified time. Late bids should not be accepted or opened. A copy of the Bid Summary Form is attached.

Petty Cash Fund

To buy items that cost less than $100* from businesses that do not issue invoices or have charge accounts, a petty cash fund must be set up by the finance officer. The finance officer is solely responsible for any withdrawals from this account. Any receipts or requests for monies from this fund must contain the expense code and be signed by the person receiving the cash for payment. This fund should be used only if other purchasing methods are not applicable.

- Amount to be established by the governing body.

Sealed Bids or Proposals

Sealed bids are required on purchases of $10,000 or more. Bids must be advertised in a local newspaper of general circulation not less than five days before bid opening date.

Purchasing Agent's Responsibility

- Prepare bid requests.
- Establish date and time for bid opening.
- Select possible sources of supply.
- Prepare specifications (unless of a technical nature, such as architectural, engineering, etc.
- Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor.
- Receive and open bids.
- Evaluate bids using staff or professional assistance.
- Make recommendations on award to governing body for approval.
- Process purchase order after governing body approval.
- Maintain all specification and bid data files.

General Information

The following policies shall apply to sealed bids:

1. **Bid or Proposal Opening:** Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud,

with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects, may be evaluated privately with a public recommendation to the governing board after evaluation and study.

2. **Late Bids:** No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened. It is important that the integrity of the bidding process be maintained.

3. **Bid Opening Schedule:** The purchasing agent is responsible for setting bid opening dates and times.

4. **Telephone Bids:** The purchasing agent will not accept any bid by telephone. He may accept telephone quotes for amounts less than $10,000.

5. **Bid Form:** When the purchasing agent sends duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return one and maintain a file copy, only bids on the Bid Form will be accepted. Bids will not be accepted on any vendor letterhead, vendor bid form or other substitutions unless special permission is given by the purchasing agent.

6. **Unsigned Bids:** Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name will not be accepted without that person's written signature.

7. **Acceptance of Bids:** The City reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept that bid (or bids) which in the judgment of the governing body is in the best interest of the City.

8. **Shipping Charges:** Bids are to include all shipping charges to the point of delivery. Bids will only be considered on the basis of delivered price, except as otherwise authorized by the governing body. In many instances, the amount of shipping charges will be the deciding factor in making a purchase.

9. **Sample Product Policy:** The purchasing agent may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

10. **Approved Equal Policy:** Specifications in the request for bids are intended to establish a desired quality or performance level or other minimum requirements, which will provide the City with the best product available at the lowest possible price.

When a **brand name** and/or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing.

Brands and/or models other than those designated as "equal to" products shall receive equal consideration.

11. **Alternate Bids:** Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the City to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item.

12. **Tie Bids:** A tie bid is one in which two or more vendors bid identical items at the same unit cost. Tie bids may be determined by one of the following factors:

    a. Discount allowed
    b. Delivery schedule
    c. Precious vendor performance
    d. Vendor location
    e. Trade-in value offered

    If the tie cannot be resolved in this manner to the satisfaction of the governing body, the decision shall be based upon a coin toss as directed by the governing body.

13. **Cancellation of Invitation for Bid or Request for Proposal:** An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the City. The reasons shall be made a part of the bid or proposal file.

14. **Public Advertisement:** In addition to publication in a newspaper of general circulation as required by law, the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications

be included in the invitation to bid. However, the notice should state clearly the purchase to be made.

15. **Other Aspects To Be Considered in Bid Awards:**

- The ability of the bidder to perform the contract or provide the material or service required.
- Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.
- The character, integrity, reputation, experience, and efficiency of the bidder.
- The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.
- The ability of the bidder to provide future maintenance and service for the use of the subject contract.
- Terms and conditions stated in the bid.
- Compliance and specifications or request for proposal.

Non-Performance Policy

Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

- Removal of a vendor from a bid list for a period to be determined by the governing body.
- Allowing the vendor to find the needed item for the City from another supplier at no additional cost to the City.
- Allowing the City to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
- Allowing monetary settlement.

Delinquent Delivery

Once the purchasing agent has issued a purchase order, no follow-up work should be done unless the item has not been received. If this happens, the purchasing agent may initiate action, either written or verbal as time allows, to investigate the delay.

Contractual Purchases

Such materials, supplies, or services that are constantly needed for city operations will be taken on a formal bid and will be awarded by the governing body for a contract period determined to be in the best interest of the City. This procedure shall be used in cases where the amount of the purchase of said materials, supplies, or services will be $10,000 or more within the fiscal year. For amounts below $10,000 the award will be made by the purchasing agent.

Items Covered By Warranty Or Guarantee

The City buys many items that have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing agent should be consulted to see if the item is covered by such warranty or guarantee. The city recorder shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing agent with the invoice indicating date of receipt.

Signatures

Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any city employee unless authorized in writing by the purchasing agent or by action of the governing body.

Trade-Ins

List of equipment to be used as trade-in shall accompany the request and specifications. The list includes the model, year, serial and city tag numbers, and other pertinent data.

Sale of Surplus Property

When the purchasing agent decides there is surplus equipment or material in the City, he shall figure out the best way to dispose of those items with an estimated value of less than $100 and dispose of them with a report to the governing board. Items with an estimated value of more than $100 shall be advertised for bidding, which will begin after the purchasing agent has received approval from the governing body. Such equipment or materials will be sold to the highest bidder.

Professional Service Contracts (Tennessee Code Annotated 12-4-106)

Professional services include legal services, fiscal agent, financial adviser or advisory services, educational consultant services, and similar services by professional people or groups with "high ethical standards." Only contracts for services performed within the professional's field of expertise are to be considered professional service contracts. Leasing office space from an attorney or purchasing computer services from an accountant, for example, are not professional services, and will require competitive bids.

Contracts for professional services will be awarded on the basis of recognized competence and integrity, rather than on competitive bids. This does not stop a city from requesting proposals from eligible service providers, then deciding about the capabilities of each. Although cost may be considered in choosing the service provider, it must not be the sole factor.

Certain Insurance (TCA 29-20-407)

Cities may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League, or any other plan authorized by any organization of governmental entities representing cities and counties.

Purchases Through State-General Services (TCA 12-3-1001)

Cities may take advantage of so called "state prices" regardless of any charter or general law requirements. Not all prices quoted to the state are available to local governments. The items, price, and vendor information are available from the purchasing division of the Department of General Services.

"Buy America" Act (TCA 54-5-135)

Cities must not buy any materials used for highway or roadway construction, resurfacing, or maintenance from any foreign government, any company wholly owned or controlled by a foreign government, or any agency of such foreign government or company. Materials include, but are not limited to asphalt cement, asphalt emulsion, rock, aggregate, liquid and solid additives, sealers, and oils. This legislation will not apply if materials made by American companies are of unsatisfactory condition, are not of sufficient quantity, or increase the overall project cost by 5 percent more than the overall project costs using materials produced by foreign companies.

Purchases of Confiscated Property from the State (TCA 12-2-201)

A city may buy a motor vehicle that has been confiscated by the state by any city officer, employee, or their agent when the purchase is for municipal use.

Interest of Officer in Municipal Contracts (TCA 6-54-107)

No one holding a city office, elected or appointed, shall contract with the City for any work. Nor shall such person hold or have any direct interest in such a contract. Direct interest is defined as any business in which the official is the sole proprietor, a partner, or the person who has the controlling interest. Controlling interest means the person with the ownership or control of the largest number of outstanding shares owned by any individual or corporation.

No city official shall be indirectly interested in any contract with the municipality unless the officer publicly acknowledges his interest. Indirectly interested is defined as any contract in which the officer is interested, but not directly, but includes contracts where the officer is directly interested, but is the sole supplier in the municipality.

Personal Interest of Officers Prohibited (TCA 12-4-101)

It is unlawful for any person whose duty is to vote for or to supervise any contract with a city to be directly interested in such a contract. No city officer or other person whose duty is to superintend any contract with a city shall be indirectly interested in any such contract, unless the officer or person publicly acknowledges his interest.

Other General Information

Preference to Local Dealers: When buying supplies, materials, equipment, and services for the City's requirements, preference shall be given dealers who have stores or warehouses within the City – price, quality, delivery, and service being equal.

Federal Excise Tax: The City is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be required to deduct the amount of such taxes from their bids, quotations, and invoices. The City is not required to pay sales taxes on purchases.

Public Inspection of Records: The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.

Designee: The purchasing agent may designate the city recorder to serve as purchasing officer under his supervision and direction.

Within the Limits of the Approved Budget: Purchases must stay within appropriation limits in funds requiring budgets either by law, regulation, or policy. Appropriation limits do not apply to nonexpendable funds not requiring budgets, such as enterprise funds, intra governmental service funds, and nonexpendable trust funds.

Performance and Bid Bonds: Performance and bid bonds may be required as determined by the purchasing agent or the governing body.

Payment Bond: A payment bond is required for all contracts of $25,000 or more to insure that all materials are paid for by the contractor. This is a requirement of Tennessee Law.

Architect or Engineer Required: Plans, specifications, and estimates for any public works project exceeding $25,000 must be prepared by a registered architect or engineer as required by TCA 62-2-107.

APPENDIX C

City of Harrogate, Tennessee

DRUG AND ALCOHOL TESTING POLICY

Developed with the Assistance of
Tennessee Municipal League
Municipal Technical Advisory Service
Institute of Public Service
The University of Tennessee

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DRUG AND ALCOHOL TESTING POLICY

(Note - The MTAS model Drug and Alcohol Testing Policy was prepared by MTAS Consultants for use by Tennessee municipalities implementing drug testing programs for municipal employees. This policy is an alternative to the Drug Free Workplace Program developed by the Tennessee Department of Labor, under the Drug Free Workplace Act. Municipalities seeking the "drug free workplace" designation from the state must adopt the program developed by the Department of Labor. MTAS Management Consultants can assist your city in obtaining a copy of the state regulations for the Drug Free Workplace Program.

The Tennessee Drug Free Workplace Program is broader than the MTAS policy in that it requires the testing of applicants for all employment positions, after a conditional offer of employment. MTAS Consultants have concerns about the legality of the state program as applied to government employees. Drug testing by a government employer is considered to be a search under the United States Constitution, and some courts have found that government employees have greater rights to contest drug testing policies than employees in the private sector. The Tennessee Drug Free Workplace Act has not been tested in court, so there is no guidance concerning the outcome of potential constitutional challenges which public employees may raise under the state law. MTAS Consultants are further concerned that cities adopting the state program may inadvertently alter the at-will status of employees. The adoption of the state program also results in the employer's loss of control over drug testing, as the General Assembly and the Department of Labor have authority over the requirements of the law and the implementation of the statute.

One benefit of adopting the state program is that the city may be designated as a "drug free workplace" by the Workers' Compensation Division of the Department of Labor. Such designation may entitle the employer to a discount on workers' compensation insurance premiums. The TML Risk Management Pool, which provides workers' compensation insurance for many Tennessee municipalities, views the drug free workplace designation as one of many factors considered when setting premium amounts charged to municipal employers.

The MTAS model Drug and Alcohol Testing Policy permits pre-employment testing and random testing of employees in "safety sensitive" positions only. This policy further provides for reasonable suspicion testing and post accident testing for all employment positions. The more limited scope and application of the MTAS policy, as compared to the state program, is based upon legal research and analysis by MTAS Consultants. It is the opinion of MTAS Consultants that drug and alcohol testing of municipal employees when

implemented in accordance with this model policy, is a practice which may be defended successfully in the event of litigation.

If you have questions concerning the MTAS model Drug and Alcohol Testing Policy please contact your MTAS Management Consultant for further information.)

1. PURPOSE

The City of Harrogate, Tennessee, recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City of Harrogate, Tennessee, to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of Harrogate, Tennessee are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of Harrogate, Tennessee has adopted this drug and alcohol testing policy effective March, 2011. This policy complies with the Federal Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol- and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the City of Harrogate, Tennessee that the use of drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct may lead to termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

1. Being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;

2. Engaging in the manufacture, sale, distribution, use, or unauthorized possession of (illegal) drugs at any time and of alcohol while on duty or while in or on city property;

3. Refusing or failing a drug and/or alcohol test administered under this policy;

4. Providing an adulterated, altered, or substituted specimen for testing;

5. Use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and

6. Use of alcohol or drugs within eight hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the city shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The city recorder or his/her designee has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City of Harrogate, Tennessee property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

2. SCOPE

Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the City of Harrogate, Tennessee. The policy also applies to applicants for positions requiring a CDL and other safety sensitive positions who have been given a conditional offer of employment from the City of Harrogate, Tennessee.

3. CONSENT FORM

Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, medical review officer (MRO), city recorder or his/her designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing policy.

The consent form shall set forth the following information:

1. The procedure for confirming and verifying an initial positive test result;

2. The consequences of a verified positive test result; and

3. The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol were present in the employee's system.

4. COMPLIANCE WITH SUBSTANCE ABUSE POLICY

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for termination.

5. GENERAL RULES

These are the general rules governing the City of Harrogate, Tennessee's drug and alcohol testing program:

1. City employees shall not take or be under the influence of any drugs unless prescribed by the employee's licensed physician. Employees who are required to take prescription and/or over-the-counter medications shall notify the proper supervisory personnel before the employees go on duty.

2. City employees are prohibited from engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on city property.

3. All City of Harrogate, Tennessee, property is subject to inspection at any time without notice. There should be no expectation of privacy in or on such property. City property includes, but is not limited to, vehicles, desks, containers, files, and lockers.

4. Any employee convicted of violating a criminal drug statute shall inform the director of his/her department of such conviction (including pleas of guilty and nolo contendere) within five days of the conviction occurring. Failure to so inform the city subjects the employee to disciplinary action up to and including termination for the first offense. The city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

6. DRUG TESTING

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six separate conditions:

A. TYPES OF TESTS

1. <u>Pre-employment</u>

All employment applicants for safety sensitive positions who have received a conditional offer of employment with the City of Harrogate, Tennessee, must take a drug test before receiving a final offer of employment. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works positions involving the operation of heavy equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children.

2. **Transfer**

Employees transferring to a safety sensitive position and/or another position within the city that requires a commercial driver's license (CDL) shall undergo drug testing.

3. **Post-Accident/Post-Incident Testing**

Following any workplace accident (incident) determined by supervisory personnel of the City of Harrogate, Tennessee, to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, **any** employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test.

Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident). (**Note - DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.**) Urine collection for post-accident (post-incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident (post-incident) testing is to be performed, the City of Harrogate, Tennessee reserves the right to direct the medical review officer (MRO) to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

a. **Post-Accident (Post-Incident) Testing for Ambulatory Employees**

Following all workplace accidents (incidents) where drug testing is to be performed, unless otherwise specified by the department head, any affected employees who are

ambulatory will be taken by a supervisor or designated personnel of the City of Harrogate, Tennessee to the designated urine specimen collection site within 32 hours following the accident. (**Note - DOT regulations allow up to 32 hours for drug tests. A lesser time provision is optional.**) In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the (testing site) within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City of Harrogate, Tennessee and shall result in administrative action up to and including termination of employment.

b. **Post-Accident (Post-Incident) Testing for Injured Employees**

Any affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Harrogate, Tennessee appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Harrogate, Tennessee or upon hiring following the implementation date.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method

for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

4. **Testing Based on Reasonable Suspicion**

A drug test is required for **any** employee where there is reasonable suspicion to believe the employee is using or is under the influence of drugs and/or alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Harrogate, Tennessee making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city recorder or his/her designee within 24 hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

5. **Random Testing**

Only employees of the City of Harrogate, Tennessee holding safety sensitive positions are subject to random alcohol and drug testing. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the City of Harrogate, Tennessee to annually random test for drugs at least 50 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random

urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Harrogate, Tennessee may omit that employee from that random testing or await the employee's return to work.

6. **Return-to-Duty and Follow-Up**

Any employee of the City of Harrogate, Tennessee who has violated the prohibited drug conduct standards and is allowed to return to work, must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

B. **PROHIBITED DRUGS**

All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the city recorder or his/her designee. The following is a list of drugs for which tests will be routinely conducted (see Appendix A for cutoff levels):

1. Amphetamines,

2. Marijuana,

3. Cocaine,

4. Opiates,

5. Phencyclidine (PCP),

6. Alcohol, and

7. Depressants.

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989.

C. DRUG TESTING COLLECTION PROCEDURES

Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of the City of Harrogate, Tennessee to a drug test collection facility selected by the City of Harrogate, Tennessee (see Appendix B), where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by these personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of Harrogate, Tennessee to perform the analysis on collected urine samples.

D. DRUG TESTING LABORATORY STANDARDS AND PROCEDURES

All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS) (see Appendix C).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the (testing site) within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence

of drugs, the employee has 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the city recorder or his/her designee.

E. **REPORTING AND REVIEWING**

The City of Harrogate, Tennessee shall designate a medical review officer (MRO) to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders (see Appendix C).

1. The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City of Harrogate, Tennessee.

2. Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

3. The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective department head, the city recorder or his/her designee, and the employee.

4. Neither the City of Harrogate, Tennessee the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the city attorney.

7. ALCOHOL TESTING

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under six separate conditions:

A. TYPES OF TESTS

1. <u>Post-Accident/Post-Incident Testing</u>

Following any workplace accident (incident) determined by supervisory personnel of the City of Harrogate, Tennessee to have resulted in significant property or environmental damage or in significant personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test.

Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

a. **<u>Post-Accident (Post-Incident) Testing for Ambulatory Employees</u>**

Following all workplace accidents (incidents) where alcohol testing is to be performed, unless otherwise specified by the department head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City of Harrogate, Tennessee to the designated breath alcohol test site for a breath alcohol test within two hours following the accident. In the event of an accident (incident) occurring after regular work hours, the employee(s) will be taken to the (<u>testing site</u>) within two hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post-incident) testing. Any unreasonable delay in appearing for alcohol

testing shall be considered a refusal to cooperate with the substance abuse program of the City of Harrogate, Tennessee, and shall result in administrative action up to and including termination of employment.

b. **Post-Accident (Post-Incident) Testing for Injured Employees**

An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident (incident) shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Harrogate, Tennessee, appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City of Harrogate, Tennessee or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure to do post-accident (post-incident) testing within two hours must be fully documented by the attending medical personnel.

2. **Testing Based on Reasonable Suspicion**

An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One

supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Harrogate, Tennessee making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the city recorder or his/her designee within eight hours of the decision to test and before the results of the tests are received by the department.

3. **Random Testing**

Only employees of the City of Harrogate, Tennessee holding safety sensitive positions are subject to random alcohol testing. "Safety sensitive positions" include police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of pipelines, teachers and other positions having responsibility for the safety and care of children. It is the policy of the City of Harrogate, Tennessee to annually random test for alcohol at least 25 percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL).

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of town, work-related causes, etc.) to be tested on the date random testing occurs, the City of Harrogate, Tennessee may omit that employee from that random testing or await the employee's return to work.

4. **Return-to-Duty and Follow-Up**

Any employee of the City of Harrogate, Tennessee who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at

least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly. (**Note - Requiring employees to pay for their return-to-duty and follow-up tests is optional.**)

Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

B. ALCOHOL TESTING PROCEDURES

All breath alcohol testing conducted for the City of Harrogate, Tennessee shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA). (**Note - A city's own public safety department cannot do this testing unless the test is required because of a traffic accident (incident).**)

Alcohol testing is to be performed by a qualified technician as follows:

1. **Step One:**
An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.04 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

2. **Step Two:**
Fifteen minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and

either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City of Harrogate, Tennessee up to and including termination of employment.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of less than 0.02 percent before returning to duty with the City of Harrogate, Tennessee.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City of Harrogate, Tennessee, when possible.

The completed breath alcohol test form shall be submitted to the city recorder or his/her designee.

8. EDUCATION AND TRAINING

A. Supervisory Personnel Who Will Determine Reasonable Suspicion Testing

Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs and one will be for alcohol.

The City of Harrogate, Tennessee will sponsor a drug-free awareness program for all employees.

B. **Distribution of Information**

The minimal distribution of information for all employees will include the display and distribution of:

a. Informational material on the effects of drug and alcohol abuse;

b. An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;

c. The City of Harrogate, Tennessee policy regarding the use of prohibited drugs and/or alcohol; and

d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

9. **CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT AND/OR VERIFIED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT**

Job applicants will be denied employment with the City of Harrogate, Tennessee if their initial positive pre-employment drug test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program approved by the city Employee Assistance Program as an alternative to or in addition to disciplinary action. If such a program is offered and accepted by the employee, then the employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through the city's Employee Assistance Program or other program sanctioned by the city, and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not

prohibit disciplinary action for the violation of city personnel policy and regulations, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the city indicating a refusal to test.

10. VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE

In the event that an employee of the City of Harrogate, Tennessee is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head in private.

Such voluntary desire for help with a substance abuse problem will be honored by the City of Harrogate, Tennessee. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the City of Harrogate, Tennessee may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

1. The employee must use all vacation, sick, and compensatory time available.

2. In the event accumulated vacation, sick, and compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided paid/unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 30-day treatment period. (Note - This is an optional provision.)

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP) of the City of Harrogate, Tennessee. The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective department head and city recorder or his/her designee of the City of Harrogate, Tennessee will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Harrogate, Tennessee Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

11. EXCEPTIONS

This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol.

12. MODIFICATION OF POLICY

This statement of policy may be revised by the City of Harrogate, Tennessee at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of the City of Harrogate, Tennessee.

This employee drug and alcohol testing policy has been approved and adopted by the City of Harrogate, Tennessee, effective March 2011.

By: ____, Mayor

By: ____, City Recorder

13. DEFINITIONS

For purposes of the drug and alcohol testing policy, the following definitions are adopted:

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

Alcohol Use - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant - Any person who has on file an application for employment or any person who is otherwise being considered for employment or transfer to the police department, fire department, or to a position requiring a commercial driver's license (CDL) being processed for employment. For the purposes of this policy, an applicant may also be: a uniformed employee who has applied for and is offered a promotion or who has been selected for a special assignment; a non-uniformed employee who is offered a position as a uniformed employee; or an employee transferring to or applying for a position requiring a CDL.

Breath Alcohol Technician (BAT) - An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Chain of Custody - The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

Collection Site - A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

Collection Site Personnel - A person who instructs donors at the collection site.

Commercial Driver's License (CDL) - A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

Commercial Motor Vehicle (CMV) - Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to

transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

Confirmation Test - In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

Confirmed Positive Result - The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

Consortium - An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

Department Director - The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

DHHS - The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

DOT Agency - An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of Harrogate, the Federal Highway Administration (FHWA) is the DOT agency.

Driver - Any person who operates a commercial motor vehicle.

EAP - Employee Assistance Program.

Employee - An individual currently employed by the City of Harrogate.

Evidential Breath Testing Device (EBT) - An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

FHWA - Federal Highway Administration.

Initial Test - In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

Medical Review Officer (MRO) - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

Negative Result - The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

NHTSA - National Highway and Traffic Safety Administration.

Refuse to Submit - Refusing to submit to an alcohol or controlled substances test means that a driver: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process.

Safety-Sensitive Positions - Safety Sensitive positions include police officers, firefighters, positions requiring a commercial drivers license, public works equipment operators, water/wastewater plant operators, all positions involving the construction and maintenance of pipelines, teachers and other positions having responsibility for the safety and care of children.

Split Specimen - Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

Substance Abuse Professional - A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission)

with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

APPENDICES

APPENDIX A

S. **1994 DRUG AND ALCOHOL TEST STANDARDS**

Drug	**Cutoff Level Screen (ng/ml)**	**Cutoff Level Confirmation (ng/ml)**
Amphetamine (speed)	1,000.00	
Amphetamine		500.00
Methamphetamine		500.00
Cannabinoid (marijuana)	50.00	15.00
Cocaine (benzoylecgonine)	300.00	150.00
Opiate	300.00	
Codeine		300.00
Morphine		300.00
Phencyclidine (PCP)	25.00	25.00
Alcohol	.02 percent BAL	.04 percent BAL

(Note - Additional substances listed under the Tennessee Drug Control Act of 1989 may be tested at the cutoff level customarily used by the selected laboratory. Cutoff levels are subject to change as DOT rules change.)

APPENDIX B

T. DESIGNATED DRUG TESTING COLLECTION FACILITY

Possible Option:

Aegis Analytical Laboratories, Inc.
624 Grassmere Park, Suite 21
Nashville, TN 37211
(615) 323-0250

America School Management Corporation (ASMC)
P.O. Box 571
Selmer, TN 38375-0571

AMS Distributors, Inc.
P.O. Box 457
Roswell, GA 30077

Attest National Drug Testing, Inc.
1600 W. Seventh St., Suite 505
Fort Worth, TX 76102

Baptist Occupational Medicine Centers
342 21st Ave. N.
Nashville, TN 37203
(615) 321-4800

Collins & Company
928 McCallie Ave.
Chattanooga, TN 37403
Attn: Joe Horne

Drug Free, Inc.
P.O. Box 8520
Little Rock, AK 72215-8520
1-800-762-3623

Drug Intervention Services of America (DISA)
11200 Westheimer, Suite 630
Houston, TX 77042

Employers Drug Program Management, Inc.
616 S. Ninth St.
Birmingham, AL 35233

Examination Management Services, Inc.
11 W. Mockingbird Lane, Fourth Floor
Dallas, TX 75247

Fidelity Search, Inc.
P.O. Box 3571
Jackson, TN 38303

Grabek Resource Management
615 Lindsay St., Suite 330
Chattanooga, TN 37403

Health Trans
3250 Dickerson Road, Suite 25
Nashville, TN 37207

National MRO
12600 W. Colfax, Suite A500
Lakewood, CO 80215

National Health Laboratories Incorporated
2540 Empire Drive
Winston-Salem, N.C. 27103
(800) 334-8627 / (919) 760-4620

National Safety Alliance
446 Metroplex Drive, Suite A 226
Nashville, TN 37215
(615) 832-0046

National Safety Council
1121 Spring Lake Drive
Itasca, IL 60143-3201

National Transportation Screening Alliance
P.O. Box 249
Signal Mountain, TN 37377

Nationwide Truckers Association, Inc.
(NTA, Inc.)
P.O. Box 1380
201 Huntersville-Concord Road
Huntersville, NC 28078
1-800-452-0030

Occupational Rehabilitation of Chattanooga
(ORC)
6500 Eastgate Center, Suite 8600
Chattanooga, TN 37411
(615) 899-7253

Pembrooke Occupational Health
2307 N. Parham Road
Richmond, VA 23229
(804) 346-1010

Roche Biomedical Laboratories, Inc.
CompuChem Division
3308 Chapel Hill/Nelson Highway
Research Triangle Park, NC 27709
Attn: Lisa Darby
1-800-833-3984, Ext. 3009

Roche Diagnostic Systems
1080 U.S. Highway 202
Branchburg, NJ 08876-1760

Safety and Compliance Management, Inc.
P.O. Box 69, 104 Howard St.
Rossville, GA 30741

Tennessee Consortium
1320 W. Main St., Suite 418
Franklin, TN 37064

United Labs
P.O. Box 1208
Evans City, PA 16033

St. Mary's Medical Services Center
1725 Triangle Park Drive
Maryville, TN 37801
(615) 982-9532

APPENDIX C

U. DESIGNATED DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS) CERTIFIED LABORATORIES

Aegis Analytical Laboratories, Inc.
624 Grassmere Park Rd., Suite 21
Nashville, TN 37211
615 331 5300

Alabama Reference Laboratories, Inc.
543 South Hull St.
Montgomery, AL 36103
800 541 4931/205 263 5745

American Medical Laboratories, Inc. 14225 Newbrook Dr.
Chantilly, VA 22021
703 802 6900

Associated Pathologists Laboratories, Inc.
4230 South Burnham Ave., Suite 250
Las Vegas, NV 89119 5412
702 733 7866

Associated Regional and University Pathologists, Inc. (ARUP)
500 Chipeta Way
Salt Lake City, UT 84108
801 583 2787

Cedars Medical Center, Department of Pathology
1400 Northwest 12th Ave.
Miami, FL 33136
305 325 5810

Centinela Hospital Airport Toxicology Laboratory
9601 S. Sepulveda Blvd.
Los Angeles, CA 90045
310 215 6020

Clinical Reference Lab
11850 West 85th St.
Lenexa, KS 66214
800 445 6917

CompuChem Laboratories, Inc.
3308 Chapel Hill, Nelson Hwy.
Research Triangle Park, NC 27709
919 549 8263/800 833 3984
(Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

CompuChem Laboratories, Inc.
Special Division
3308 Chapel Hill Nelson Hwy.
Research Triangle Park, NC 27709
919 549 8263
(Formerly: Roche CompuChem Laboratories, Inc.,Special Division, A Member of the Roche Group, CompuChem Laboratories, Inc. Special Division)

Baptist Medical Center
Toxicology Laboratory
9601 1 630, Exit 7
Little Rock, AR 72205 7299
501 227 2783
(formerly: Forensic Toxicology Laboratory
Baptist Medical Center)

Bayshore Clinical Laboratory
4555 W. Schroeder Dr.
Brown Deer, WI 53223
414 355-4444/800 877 7016

CORNING Clinical Laboratories Inc.
1355 Miftel Blvd.
Wood Dale, IL 60191
708 595 3888
(formerly: MetPath, Inc., CORNING
MetPath Clinical Laboratories)

CORNING MetPath Clinical Laboratories
One Malcolm Ave.
Teterboro, NJ 07608
201 393 5000
(formerly: MetPath, Inc.)

CORNING National Center for Forensic
Science
1901 Sulphur Spring Rd.
Baltimore, MD 21227
410 536 1485
(formerly: Maryland Medical Laboratory,
Inc., National Center for Forensic Science)

CORNING Nichols Institute
7470 A Mission Valley Rd.
San Diego, CA 92108 4406
800 446 47,28/619 686 3200
(formerly: Nichols Institute, Nichols
Institute Substance Abuse Testing (NISAT))

CORNING Clinical Laboratories
South Central Division
2320 Schuetz Rd.
St. Louis, MO 63146
800 288 7293

CORNING Clinical Laboratories
8300 Esters Blvd., Suite 900
Irving, TX 75063
800 526 0947
(formerly: Damon Clinical Labs,
Damon/MetPath)

Doctors Laboratory, Inc.
P.O. Box 2658
2906 Julia Dr.
Valdosta, GA 31604
912 244 4468

Drug Labs of Texas
15201 I-10 East, Suite 125
Channelview, TX 77530
713 457 3784

DrugProof
Division of Dynacare/Laboratory of
Pathology, LLC
1229 Madison St., Suite 500
Nordstrom Medical Tower
Seattle, WA 98104
800 898 0180/206 386 2672
(formerly: Laboratory of Pathology of
Seattle, Inc., DrugProof, Division of
Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc.
P.O. Box 2969
1119 Meams Rd.
Warminster, PA 18974
215 674 9310

Cox Medical Centers
Department of Toxicology
1423 North Jefferson Ave.
Springfield, MO 65802
800 876 3652/417 836 3093

ElSohly Laboratohes, Inc.
5 Industrial Park Dr.
Oxford, MS 38655
601 236 2609

Dept. of the Navy, Navy Drug Screening Laboratory
Building 38 H
Great Lakes, IL 60088 5223
708 688 2045/708 688 4171
Diagnostic Services Inc., dba DSI
4048 Evans Ave., Suite 301
Fort Myers, FL 33901
813 936 5446/800 735 5416

General Medical Laboratories
36 South Brooks St.
Madison, WI 53715
608 267 6267

Harrison Laboratories, Inc.
9930 W. Highway 80
Midland, TX 79706
800 725 3784/915 563 3300
(formerly: Harrison & Ass. Forensic Laboratories)

National Reference Laboratory, Substance Abuse Division Laboratory Corporation of America
21903 68th Ave. South, Kent, WA 98032
206 395 4000
(Formerly: Regional Toxicology Services)

HealthCare/MetPath
24451 Telegraph Rd.
Southfield, MI 48034
800 444 0106 ext. 650
(formerly: HealthCare/Preferred Laboratories)

Laboratory Corporation of America
2540 Empire Dr.
Winston Salem, NC 27103 6710
Outside NC:919 760 4620/800 334 8627 / Inside NC: 800 642 0894
(Formerly: National Health Laboratories Incorporated)

Holmes Regional Medical Center Toxicology Laboratory
5200 Babcock St., N.E., Suite 107
Palm Bay, FL 32905
407 726 9920

Laboratory Corporation of America Holdings
1120 Stateline Rd.
Southaven, MS 38671
601 342 1286
(Formerly: Roche Biomedical Laboratories, Inc.)

Jewish Hospital of Cincinnati, Inc.
3200 Burnet Ave.
Cincinnati, OH 45229
513 569 2051

Laboratory Corporation of America Holdings
69 First Ave.
Raritan, NJ 08869
800 437 4986
(Formerly: Roche Biomedical Laboratories, Inc.)

LabOne, Inc.
8915 Lenexa Dr.
Overland Park, Kansas 66214
913 888 3927
(formerly: Center for Lab Services)

Laboratory Corporation of America
13900 Park Center Rd.
Hemdon, VA 22071
703 742 3100
(Formerly: National Health Laboratories Incorporated)

Laboratory Corporation of America d.b.a.
LabCorp Reference Laboratory, Substance Abuse Division
1400 Donelson Pike, Suite A 15
Nashville, TN 37217
615 360 3992/800 800 4522
(Formerly: National Health Laboratories Incorporated, d.b.a.)

Medical College Hospitals Toxicology Laboratory
Department of Pathology
3000 Adington Ave.
Toledo, OH 43699 0008
419 381 5213

Medlab Clinical Testing, Inc.
212 Cherry Lane
New Castle, DE 19720
302 655 5227

MedTox Laboratories, Inc.
402 W. County Rd. D
St. Paul, MN 55112
800 832 3244/612 636 7466

Methodist Hospital of Indiana, Inc.
Department of Pathology and Laboratory Medicine
1701 N. Senate Blvd.
Indianapolis, IN 46202
317 929 3587

Laboratory Specialists, Inc.
113 Jarrell Dr.
Belle Chasse, LA 70037
504 392 7961

Marshfield Laboratories
1000 North Oak Ave.
Marshfield, WI 54449
715 389 3734/800 222 5835

MedExpress
National Laboratory Center
4022 Willow Lake Blvd.
Memphis, TN 38175
901 795 1515

National Toxicology Laboratories, Inc.
1100 California Ave.
Bakersfield, CA 93304
805 322 4250

Northwest Toxicology, Inc.
1141 E. 3900 South
Salt Lake City, UT 84124
800 322 3361

Oregon Medical Laboratories
P.O. Box 972
722 East 11th Ave.
Eugene, OR 97440 0972
503 687 2134

Pathology Associates Medical Laboratories, East
11604 IN
Spokane, WA 99206
509 926 2400

Methodist Medical Center Toxicology Laboratory
221 N.E. Glen Oak Ave.
Peoria, IL 61636
800 752 1835/309 671 5199

MetPath Laboratories
875 Greentree Rd.
4 Parkway Ctr.
Pittsburgh, PA 15220 3610
412 931 7200 (formerly: Med Chek Labs, Inc.,)

MetroLab Legacy Laboratory Services
235 N. Graham St.
Portland, OR 97227
503 413 4512, 800 237 7808(x4512)

National Psychopharmacology Laboratory, Inc.
9320 Park W. Blvd.
Knoxville, TN 37923
800 251 9492

Poisonlab, Inc.
7272 Clairemont Mesa Rd.
San Diego, CA 92111
619 279 2600/800 882 7272

Presbyterian Laboratory Services
1851 East Third Street
Charlotte, NC 28204
800 473 6640

PDLA, Inc. (Princeton)
100 Corporate Court
So. Plainfield, NJ 07080
908 769 8500/800 237 7352

PharmChem Laboratories, Inc.
1505 A O'Bden Dr.
Menlo Park, CA 94025
415 328 6200/800 446 5177

PharmChem Laboratories, Inc. Texas Division
7606 Pebble Dr.
Fort Worth, TX 76118
817 595 0294
(formerly: Harris Medical Laboratory)

Physicians Reference Laboratory
7800 West 110th St.
Overland Park, KS 66210
913 338 4070/800 821 3627
(formerly: Physicians Ref Lab Toxicology Lab)

SmithKIine Beecham Clinical Laboratories
506 E. State Pkwy.
Schaumburg, IL 60173
708 885 2010
(formerly: International Toxicology Laboratories)

SmithKIine Beecham Clinical Laboratories
400 Egypt Rd.
Nordstown, PA 19403
800 523 5447
(formerly: SmithKline Bio Science Laboratories)

Puckett Laboratory
4200 Mamie St.
Haftiesburgh, MS 39402
601 264 3856/800 844 8378

Scientific Testing Laboratories, Inc.
463 Southlake Blvd.
Richmond, VA 23236
804 378 9130

Scott & White Drug Testing Laboratory
600 S. 25th St.
Temple, TX 76504
800 749 3788

S.E.D. Medical Laboratories
500 Walter NE, Suite 500
Albuquerque, NM 87102
505:244 8800

Sierra Nevada Laboratories, Inc.
888 Willow St.
Reno, NV 89502
800 648 5472

SmithKline Beecham Clinical Laboratories,
7600 Tyrone Ave.,
Van Nuys, CA 91045,
818 376 2520

SmithKline Beecham Clinical Laboratories
801 East Dixie Ave.
Leesburg, FL 34748
904 787 9006

SmithKIine Beecham Clinical Laboratories
3175 Presidential Dr.
Atlanta, GA 30340
404 934 9205
(formerly: SmithKIine Bio Science
Laboratories)

SmithKIine Beecham Clinical Laboratories
8000 Sovereign Row
Dallas, TX 75247
214 638 1301
(formerly: SmithKline Bio Science
Laboratories)

SmithKline Beecham Clinical Laboratories
1737 Airport Way South, Suite 200
Seattle, WA 98134
206 623 8100

South Bend Medical Foundation, Inc.
530 N. Lafayette Blvd.
South Bend, IN 46601
219 234 4176

Southwest Laboratories
2727 W. Baseline Rd., Suite 6
Tempe, AZ 85283
602 438 8507

St. Anthony Hospital (Toxicology
Laboratory)
P.O. Box 205
1000 N. Lee St.
Oklahoma City, OK 73102
405 272 7052

Toxicology Testing Service, Inc.
5426 N.W. 79th Ave.
Miami, FL 33166
305 593 2260

Toxicology & Drug Monitoring Laboratory
University of Missouri Hospital & Clinics
301 Business Loop 70 West, Suite 208
Columbia, MO 65203
314 882 1273

TOXWORX Laboratories, Inc.
6160 Vadel Ave.
Woodland Hills, CA 91367
818 226 4373
(formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio Analytical, a Division of MedTox Laboratories, Inc.)

UNILAB
18408 Oxnard St.
Tarzana, CA 91356
800 492 0800/818 3438191
(formerly: MetWest BPL Toxicology Laboratory)

APPENDIX D

V. EMPLOYEE ACKNOWLEDGMENT FORM (CDL Required)

City of Harrogate, Tennessee

EMPLOYEE ACKNOWLEDGMENT

As an applicant or an employee, I have carefully read the City of Harrogate, Tennessee's drug and alcohol testing policy. I have received a copy of the City of Harrogate, Tennessee's drug and alcohol testing policy, understand its requirements, and agree without reservation to follow this policy. As an applicant, I am aware that my offer of employment is conditional upon the results of a drug and/or alcohol test. As an employee, I am aware that I may be required to undergo drug and/or alcohol tests, that I will be informed prior to the drug and/or alcohol test, and that I may be subject to immediate dismissal if I refuse to take the test.

______________________________	______________________
Name of Applicant or Employee	Social Security Number
______________________________	______________________
Department	Supervisor
______________________________	______________________
(Signature of Applicant or Employee)	Date
______________________________	______________________
(Signature of Witness)	Date

APPENDIX E

W. CONSENT AND ACKNOWLEDGMENT FORM

City of Harrogate, Tennessee

DRUG/ALCOHOL TESTING PROCEDURES

CONSENT AND ACKNOWLEDGMENT FORM

As an applicant or an employee with the City of Harrogate, Tennessee, I hereby consent to and acknowledge that I am scheduled to undergo drug and/or alcohol testing. The test for alcohol will be a breath analysis test. The drug test will involve an analysis of a urine sample, which I will provide at a designated site. The purpose of the test will be to test for the presence of the following substances: amphetamines, marijuana, cocaine, opiates, PCP, alcohol, and/or any additional drugs listed in the Tennessee Drug Control Act. I authorize qualified personnel to take and have analyzed appropriate specimens to determine if drugs and/or alcohol are present in my system. I acknowledge that the drug/alcohol screen test results will be made available to the testing laboratory, medical review officer (MRO), the city recorder, or his/her designee. As an applicant, I am aware that a confirmed and verified positive drug/alcohol test result will rescind my conditional offer of employment. As an employee, I am aware that a confirmed and verified positive test result may lead to disciplinary action up to and including immediate dismissal. I will present a copy of this form to the collection site when I report for my scheduled drug/alcohol test. I also understand that failure to provide adequate breath for testing without a valid medical explanation, failure to provide adequate urine for controlled substances testing without a valid medical explanation, and engaging in conduct that clearly obstructs the testing process are the same as refusing to test.

Name of Applicant or Employee: ____

Department Name: ____

Social Security Number: ___________________________

____________________________________	______________________________
(Signature of Applicant or Employee)	Date
____________________________________	______________________________
(Signature of Witness)	Date

APPENDIX F

ANTI-DRUG AND ALCOHOL POLICY TESTING REQUIREMENTS

TYPE OF TEST	EMPLOYEE GROUP			
	CDL REQUIRED	PIPELINE WORKER	SAFETY SENSITIVE	OTHER GENERAL
DRUG TESTING:				
1. Pre Employment	Required	Required	Optional	No
2. Transfer *	Required	Required	Optional	No
3. Post Accident/Incident	Required	Required	Optional	Optional
4. Reasonable Suspicion	Required	Required	Optional	Optional
5. Random	Required	Required	Optional	No
6. Return to Duty/Follow up	Required	Required	Optional	Optional
ALCOHOL TESTING:				
1. Transfer *	Required	No	No	No
2. Post Accident/Incident	Required	Optional	Optional	Optional
3. Reasonable Suspicion	Required	Optional	Optional	Optional
4. Random	Required	No	No	No
5. Return to Duty/Follow up	Required	Optional	Optional	Optional

* Applies to existing employees transferring into a new position within the respective employee group.

APPENDIX G

REQUIREMENTS FOR ALCOHOL AND DRUG TESTING POLICY STATEMENTS

Local governments are required to develop a policy statement for the alcohol and drug testing programs. This policy statement must be distributed to every safety sensitive employee prior to the start of the testing program, to representatives of employee organizations, and to new employees as they are hired or transferred into safety sensitive positions. The FHWA rules require that the following information be included in the policy:

1) The name of the person designated by the employer to answer questions about the alcohol and drug testing program;

2) The employees who are covered by the DOT and FHWA rules and consequently the local government's alcohol and drug testing policy;

3) Information about the safety sensitive functions performed by the covered employees;

4) Information concerning safety sensitive employee conduct that is prohibited under the DOT/FHWA rules;

5) The circumstances under which a driver will be tested for alcohol and drugs;

6) The procedures that will be followed to:

   a) Test for the presence of alcohol and drugs;

   b) Protect the covered employee and the integrity of the testing processes;

   c) Safeguard the validity of the test results;

   d) Ensure that those results are attributed to the correct employee;

7) The requirement that a covered employee submit to alcohol and drug tests administered in accordance with the DOT/FHWA rules;

8) An explanation of what constitutes a refusal to submit to an alcohol or drug test and the resulting consequences;

9) The consequences resulting from positive alcohol and/or drug tests;

10) Information concerning

    a) The effects of alcohol and drug use on an individual's health, work, and personal life

    b) Signs and symptoms of an alcohol or drug problem (the driver's or a coworkers's)

    c) Available methods of intervening when an alcohol or drug problem is suspected, including confrontation, referral to any employee assistance program, and/or referral to management.

The policy may also include information on additional local government policies regarding the use or possession of alcohol or drugs that the local government has implemented under its own authority. For example, local governments may want to explain whether the local government will pay for all alcohol and drug tests, if the employees will pay for all the tests, or if the costs will be shared. Although these rules preempt any inconsistent state or local laws, state or local governments may have adopted policies that require funding of alcohol and drug tests and such policies would not be considered as inconsistent with these rules. A thorough, legal review of all state and local laws regarding alcohol and drug testing should be conducted before implementation of these rules begins.

The local government must ensure that each covered employee is required to sign a statement that he/she has received a copy of the policy described above. The local government keeps the original of the signed statement and may also provide a copy to the employee.

APPENDIX D

Enforcement Response Guide Table

Unauthorized Discharge (no permit)				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Failure to Return Industrial user Survey	Initial, requirements not understood	1	Phone call or visit to explain or assist	PC
	Persistent after assistance	4	AO and fine or termination of service	PC, LAO
Unpermitted discharge	IU unaware of requirements; no harm to POTW or environment	1	Phone Call and or NOV with application	PC
	IU unaware of requirement; harm to POTW or environment	3	Show Cause Hearing and/or AO and fine	LAO
	Failure to apply continues after notification by PC	4	AO and fine or termination of service	LAO
Failure to renew permit	IU has not submitted application within 10 days of due date	1	Phone call, NOV	PC
Discharge Permit Violations				
Exceeding of local, state, or federal standards	Isolated, <or= 1/ month (no harm)	1	Phone call and/ or NOV	PC
	Isolated, > or= 1/month (no harm)	2	AO to develop spill prevention plan (if not previously submitted)	LAO
	Isolated, harmful to POTW or environment	3	Show Cause Hearing and/ or AO and fine	PC LAO
	Chronic or TRC, no harm	2,1st 3,2nd 4,3rd	AO and fine	LAO
	Chronic or TRC, harm to POTW or environment	4	AO and fine and/ or Termination of service	LAO

Enforcement Response Guide Table

Monitoring and Reporting Violations				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Reporting violation	Report improperly signed or certified	1	Phone call and/ or NOV	PC
	Report improperly signed or certified after prior notice	2	Show Cause Hearing and/ or AO	PC LAO
	Isolated, (<20% / 6mo. >5 days late)	1	Phone call and/ or NOV	PC
	Significant, (>20% / 6mo.>5 days late)	2	AO to submit and fine for each additional day late	LAO
	Reports always late: failure to submit (>75% of reports > 5 days late) within 12 month reporting period	5	AO and fine and/ or Civil action or Chancery Court or Termination of service	LAO
	Failure to report spill or discharge change, no harm	1	NOV	PC
	Failure to report spill or discharge change with harm	3	AO and fine and/ or Civil action	LAO
	Repeated failure to report spills >2 failures / 12 mo. Reporting periods	5	AO and fine and/ or civil action or termination	LAO
	Falsification of records	5	Criminal Investigation or termination	LAO
Failure to monitor correctly	Failure to monitor all permit required pollutants	1 2	NOV 1st / 12mo. reporting period AO 2nd / 12mo. Reporting period	PC LAO
	Recurring failure to monitor > 4 failures/ 24 month reporting period	3	AO and fine and/ or Civil action	LAO

Improper sampling	No evidence of intent	1	NOV	PC
	Evidence of intent, tampering with sampler	5	Criminal investigation or termination	LAO

Enforcement Response Guide Table

Monitoring and Reporting Violations (cont.)				
Noncompliance	Nature of Violation	Category	Enforcement Response	Personnel
Failure to install monitoring equipment	Delay of less than 30 days	1	NOV	PC
	Delay of more than 30 days	2	AO to install with fine for each additional day	LAO
	Recurring, violation of AO	5	Civil Action or Criminal Investigation or termination of service	LAO
Compliance schedule	Missed milestone, less than 30 days, will not affect final schedule	1	NOV	PC
	Missed milestone more than 30 days, will affect final schedule (good cause)	2	AO	LAO
	Missed milestone, more than 30 days, will affect final schedule (no good cause)	4	AO and fine Civil action or termination	LAO
	Recurring violations or violations of AO	5	Civil Action and/or Criminal Investigation and/ or Termination of service	LAO

Enforcement Response Guide Table

Other Permit Violations				
Non-compliance	Nature of Violation	Category	Enforcement Response	Personnel
Waste Stream Dilution in lieu of pretreatment	Initial violation	2	AO and fine	LAO
	Recurring	3	Show Cause Hearing Termination	LAO
Failure to mitigate noncompliance or halt production	Does not cause harm	1	NOV	PC
	Does cause harm	5	AO and fine or Civil action	LAO
Discharging following a terminated permit due to enforcement action that terminated service	Initial violation	5	Maximum penalties	LAO
Failure to resample following violation	Initial violation	1	Phone call or visit	PC
	Repeated failure after notice by PC	2nd #1,3rd#2, 4th#3	2nd NOV, 3rd AO and fine 4th AO and fine and/or termination of service	PC , LAO
Failure to properly operate and maintain facility	Does not cause harm	1	NOV	PC
	Does cause harm	4	AO and fine or, Civil Action	LAO

Violations Detected During Site Visit				
Entry Denial	Entry denied or consent withdrawn: copies of records denied	2	Obtain warrant and return to IU	PC
Illegal Discharge, violation of general discharge prohibitions	No harm to POTW or environment	2	AO and fine	LAO
	Caused harm or evidence of intent or negligence	4	AO and fine and/ or Civil action and or criminal investigation	LAO
	Recurring, violation of AO	5	Terminate Service	LAO

Enforcement Response Guide Table

Violations During Site Visits (cont.)				
Non-compliance	Nature of violation	Category	Enforcement Response	Personnel
Improper sampling	Unintentional sampling at incorrect location	1	NOV	PC
	Unintentional using incorrect sample type	1	NOV	PC
	Unintentional using incorrect techniques	1	NOV	PC
Inadequate record keeping	Files incomplete or missing (no evidence of intent)	1	NOV	PC
	Recurring	3	AO and fine	LAO
Failure to report additional monitoring	Inspection finds additional files (unintentional)	2	NOV	LAO
	Recurring (considered falsification)	4	AO and Fine	LAO

ORDINANCE NO. 142

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF HARROGATE, TENNESSEE.

WHEREAS some of the ordinances of the City of Harrogate are obsolete, and

WHEREAS some of the other ordinances of the City of Harrogate are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Harrogate, 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 "Harrogate Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF HARROGATE, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the City of Harrogate 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 "Harrogate Municipal Code," hereinafter referred to as the "municipal code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said city; any ordinance establishing a social security system or providing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the

portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the city; any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the city.

Section 4. Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars ($50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.[1]

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[1]State law reference

For authority to allow deferred payment of fines, or payment by installments, see *Tennessee Code Annotated*, § 40-24-101 *et seq*.

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.

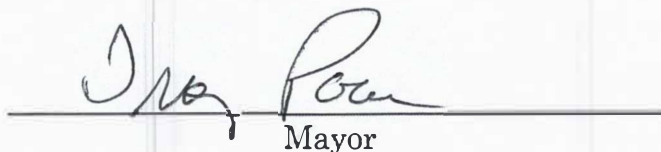
Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, November 28, 2022

Passed 2nd reading, December 20, 2022



Mayor

Recorder

APPROVED AS TO FORM:

City Attorney