

**THE
HENDERSON
MUNICIPAL
CODE**

Prepared by the

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

in cooperation with the

TENNESSEE MUNICIPAL LEAGUE

April 2000

Change 3
August 12, 2021

CITY OF HENDERSON, TENNESSEE

MAYOR

Robert (Bobby) King

ALDERMEN

Mark A. Barber
Donna R. Butler
Buel Maness
Michael Phelps
Jason Rhodes
Keith W. Smith

RECORDER

Jim E. Garland

CITY ATTORNEY

Jerry Spore

PREFACE

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

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

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

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

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

- (1) That all ordinances relating to subjects treated in the code or which should be added to the code are adopted as amending, adding, or deleting specific chapters or sections of the code (see section 8 of the adopting ordinance).
- (2) That one copy of every ordinance adopted by the city is kept in a separate ordinance book and forwarded to MTAS annually.
- (3) That the city agrees to pay the annual update fee as provided in the MTAS codification service charges policy in effect at the time of the update.

When the foregoing conditions are met MTAS will reproduce replacement pages for the code to reflect the amendments and additions made by such ordinances. This service will be performed at least annually and more often if justified by the volume of amendments. Replacement pages will be supplied with detailed instructions for utilizing them so as again to make the code complete and up to date.

The able assistance of Bobbie J. Sams, the MTAS Word Processing Specialist who did

all the typing on this project, and Tracy Gardner, Administrative Services Assistant, is gratefully acknowledged.

Steve Lobertini
Legal Consultant

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

SECTION 9. Be it further enacted, That it shall be the duty of the Mayor to carefully examine all resolutions, ordinances and any other writings passed by the Board. Should any such resolution, ordinance or writing not meet with his approval, the same shall be returned at the next regular meeting of the Board with the objections thereto in writing. No action so vetoed shall go into effect unless the same be again passed by a majority of the entire Board. No ordinance shall become law unless the same shall have passed two readings by majority vote and been signed by the Mayor unless returned by veto at the next regular meeting. Both readings may be made at the same meeting by unanimous vote of the Board with no members absent or by readings at two regular consecutive meetings or at a special called meeting prior to the second consecutive regular meeting.

The Mayor may make temporary appointments to fill temporary vacancies, subject to the approval of the Board at its next regular meeting; he shall likewise have the power to make special deputation to increase temporarily the police force when in his judgment the good of the City requires it.

A special called meeting may be called by the Mayor, or by any three Aldermen, and he or they shall state to the Board in writing the purpose of such meeting, which, together with the action of the Board, shall be spread on the minutes of the regular minute book. The Mayor shall take care that all ordinances are duly enforced and observed, and perform other duties such as may by ordinance of the Board be required of him. [As replaced by Priv. Acts 2001, ch. 46, § 12]

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TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MAYOR.
3. RECORDER.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN²

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- 1-104. Passage or amendment of a city ordinance.

1-101. Time and place of regular meetings. The board of mayor and aldermen shall meet for regular monthly meetings on the second Thursday of each month at 7:00 P.M. at Henderson City Hall. Special meetings may be called and held from time at any time, at any location specified in the call of such

¹Charter references

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

Municipal code references

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

Fire department: title 7.

Utilities: titles 18 and 19.

Wastewater treatment: title 18.

Zoning: title 14.

²Charter references

Compensation: § 5.

Oath: § 4.

Qualifications: §§ 3 and 6.

Quorum: § 5.

Term of office: § 3.

Vacancy in office: § 5.

meeting, pursuant to the present provisions concerning the same. (1976 Code, § 1-101, modified, as replaced by Ord. #439, Jan. 2009)

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

- (1) Call to order by the mayor.
- (2) Roll call by the recorder.
- (3) Reading of minutes of the previous meeting by the recorder and approval or correction.
- (4) Grievances from citizens.
- (5) Communications from the mayor.
- (6) Reports from committees, aldermen, and other officers.
- (7) Old business.
- (8) New business.
- (9) Adjournment. (1976 Code, § 1-102)

1-103. 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 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. (1976 Code, § 1-103, modified)

1-104. Passage or amendment of a city ordinance.¹ No ordinance shall become a law at any meeting at which it originated unless it is passed by a unanimous vote upon two (2) readings. All ordinances shall be read two (2) times before becoming law. (1976 Code, § 1-104, as amended by Ord. #439, Jan. 2009)

¹Charter reference

Ordinance adoption procedures: § 9.

CHAPTER 2**MAYOR¹****SECTION**

1-201. Generally supervises city's affairs.

1-202. Executes city's contracts.

1-201. Generally supervises city's affairs. The mayor shall have general supervision of all municipal affairs and may require such reports from the officers and employees as he may reasonably deem necessary to carry out his executive responsibilities. (1976 Code, § 1-201)

1-202. Executes city's contracts. The mayor shall execute all contracts as authorized by the board of mayor and aldermen. (1976 Code, § 1-202)

¹Charter references

Compensation: § 5.

Oath: § 4.

Powers: § 9.

Term of office: § 3.

Vacancy in office: § 5.

CHAPTER 3

RECORDER¹

SECTION

1-301. [Repealed.]

1-302. To keep minutes, etc.

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

1-304. Compensation.

1-301. [Repealed]. (1976 Code, § 1-301, as repealed by Ord. #455, May 2010)

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. (1976 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 to another corporate officer. He shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the city shall provide. (1976 Code, § 1-303)

1-304. Compensation. The recorder shall be entitled to and shall receive compensation for his services, the amount and rate of payment of which shall be fixed by the board of mayor and aldermen from time to time hereafter. (1976 Code, § 1-304)

¹Charter references

Bond required: § 3.

Duties: § 11.

Oath: § 4.

Qualifications: § 6.

Vacancy in office: § 5.

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3

MUNICIPAL COURT

CHAPTER

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

CHAPTER 1

CITY JUDGE

SECTION

3-101. City judge.

3-101. City judge. The officer designated by the charter to handle judicial matters within the city shall preside over the city court and shall be known as the city judge. (1976 Code, § 1-501)

CHAPTER 2

COURT ADMINISTRATION

SECTION

- 3-201. Maintenance of docket.
- 3-202. Imposition of fines, penalties, and costs.
- 3-203. Disposition and report of fines, penalties, and costs.
- 3-204. Disturbance of proceedings.
- 3-205. Trial and disposition of cases.
- 3-206. Contempt of court.

3-201. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as name, citation number, warrant and/or summons numbers; alleged offense; disposition; penalties and costs imposed and whether collected; and all other information which may be relevant. (1976 Code, § 1-502, as amended by Ord. #441, March 2009)

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

In all cases brought to city court for violation of ordinances of the City of Henderson or laws of the State of Tennessee and which a conviction results or a cash bond is paid and forfeited, the costs shall be one hundred dollars (\$100.00) for each violation. This will include any and all fees due to the State of Tennessee for litigation tax, etc.

When the case requires it, the following cost may be collected in addition to those listed above:

| | |
|--|---------|
| Warrant | \$10.00 |
| Issuing subpoena | \$10.00 |
| Certified copy of final judgment | \$10.00 |

(1976 Code, § 1-508, modified, as replaced by Ord. #441, March 2009, Ord. #460, July 2010, and Ord. #513, May 2018 *Ch3_08-12-21*)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the city judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the city. At the end of each month he shall submit to the board of mayor and aldermen a report accounting for the collection or non-collection of all fines, penalties, and costs imposed by his court during the current month and to date for the current fiscal year. (1976 Code, § 1-511)

3-204. Disturbance of proceedings. It shall be unlawful for any person to create any disturbance of any trial before the city court by making loud or unusual noises, by using indecorous, profane, or blasphemous language, or by any distracting conduct whatsoever. (1976 Code, § 1-512)

3-205. Trial and disposition of cases. Every person charged with violating a city ordinance shall be entitled to an immediate trial and disposition of his case, provided the city court is in session or the city judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1976 Code, § 1-506)

3-206. 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. (as added by Ord. #441, March 2009)

CHAPTER 3

WARRANTS, SUMMONSES AND SUBPOENAS

SECTION

3-301. Issuance of arrest warrants.

3-302. Issuance of summonses.

3-303. Issuance of subpoenas.

3-301. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating city ordinances. (1976 Code, § 1-503)

3-302. Issuance of summonses. When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the ordinance alleged to have been violated. Upon failure of any person to appear before the 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. (1976 Code, § 1-504)

3-303. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1976 Code, § 1-505)

¹State law reference

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

CHAPTER 4

BONDS AND APPEALS

SECTION

3-401. Appearance bonds authorized.

3-402. Appeals.

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

3-401. Appearance bonds authorized. When the city judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the city judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1976 Code, § 1-507)

3-402. Appeals. Any defendant who is dissatisfied with any judgment of the city court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond.¹ (1976 Code, § 1-509)

3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the city court shall be in such amount as the city judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the city court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred and fifty dollars (\$250.00) and shall be conditioned that if the circuit court shall find against the appellant the fine or penalty and all costs of the trial and appeal shall be promptly paid by the defendant and/or his sureties. An appearance or appeal bond in any case may be made in the form of a cash deposit or by any corporate surety company authorized to do business in Tennessee or by two (2) private persons who individually own real property located within the county. No other type bond shall be acceptable. (1976 Code, § 1-510)

¹State law reference

Tennessee Code Annotated, § 27-5-101.

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

1. SOCIAL SECURITY.
2. MISCELLANEOUS REGULATIONS--CITY PERSONNEL.
3. SUBSTANCE ABUSE PROGRAM.
4. OCCUPATIONAL SAFETY AND HEALTH PROGRAM.
5. TRAVEL REIMBURSEMENT REGULATIONS.
6. CODE OF ETHICS.

CHAPTER 1**SOCIAL SECURITY****SECTION**

- 4-101. Policy and purpose as to coverage.
- 4-102. Necessary agreements to be executed.
- 4-103. Withholdings from salaries or wages.
- 4-104. Appropriations for employer's contributions.
- 4-105. Records and reports.
- 4-106. Exclusions.

4-101. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Henderson, Tennessee, to extend at the earliest date, to the employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the System of Federal Old-Age and Survivors Insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734, 81st Congress. In pursuance of said policy, and for that purpose, the city shall take such action as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-701)

4-102. Necessary agreements to be executed. The Mayor of the City of Henderson, Tennessee, is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the state executive director of old age insurance, as agent or agency, to secure coverage of employees and officials as provided in the preceding section. (1976 Code, § 1-702)

4-103. Withholdings from salaries or wages. Withholdings from the salaries or wages of employees and officials for the purpose provided in the first section of this chapter are hereby authorized to be made in the amounts and at

such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (1976 Code, § 1-703)

4-104. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions and the same shall be paid over to the state or federal agency designated by said laws or regulations. (1976 Code, § 1-704)

4-105. Records and reports. The city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (1976 Code, § 1-705)

4-106. Exclusions. There is hereby excluded from this chapter any authority to make any agreement with respect to any position or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the city.

There is hereby excluded from this chapter any authority to make any agreement with respect to emergency and fee based positions and elective officials engaged in rendering legislative, executive and judicial services, or any employee or official not authorized to be covered by applicable federal or state laws or regulations. Acting under § 4-102 hereinabove contained, the mayor is hereby directed to amend the social security agreement with the State of Tennessee, so as to extend the benefits of the system of Federal Old Age and Survivors Insurance to include emergency and fee based positions and elective officials engaged in rendering legislative, executive and judicial services as of April 1, 1962.

The mayor is authorized and directed to execute an amendment to said agreement to exclude from coverage under the Federal System of Old Age, Survivors, Disability, Health Insurance, the services of an election worker and an election official if the remuneration paid for such services in a calendar year is less than \$1,000 on or after January 1, 1995, ending on or before December 31, 1999 and, the adjusted amount determined under section 218(c)(8)(B) of the Social Security Act for any calendar year, commencing on or after January 1, 2000, with respect to services performed during any such calendar year. This exclusion to be effective in and after a calendar year in which a state's modification is mailed, or delivered by other means to the appropriate federal official. (1976 Code, § 1-706, as amended by Ord. #288, June 1995)

CHAPTER 2**MISCELLANEOUS REGULATIONS--CITY PERSONNEL****SECTION**

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- 4-202. Definitions.
- 4-203. Coverage.
- 4-204. Recruitment.
- 4-205. Residence requirements.
- 4-206. Nepotism.
- 4-207. Promotions.
- 4-208. Transfers.
- 4-209. Employment examinations.
- 4-210. Post-offer physical examinations and pre-employment drug/alcohol testing.
- 4-211. Hiring of city employees.
- 4-212. Emergency appointments.
- 4-213. Drivers License Requirement.
- 4-214. Notice of Arrest.
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- 4-219. Medical, dental and vision insurance.
- 4-220. Retirement Plans.
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- 4-223. Sick leave.
- 4-224. Occupational disability or injury leave.
- 4-225. Pay raises and cost of living adjustments.
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- 4-243. Right to a hearing.
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- 4-252.--4-260. Reserved for future use.
- 4-261. Amendment of personnel rules.

4-201. Property rights/continued employment. Nothing contained herein shall grant, intend to grant or infer property rights and/or imply permanent or continued employment with the City of Henderson. (1976 Code, § 1-801, as replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-202. Definitions. As used in this chapter the following words and terms shall have the meanings listed.

(1) "Absence without leave." An absence from duty which was not authorized or approved.

(2) "Applicant." An individual who has applied in writing on an application form or resume for employment.

(3) "Appointment." The offer to and acceptance by a person of a position either on a regular or temporary basis.

(4) "Compensatory leave." Time off from work in lieu of monetary payment for overtime worked.

(5) "Demotion." Assignment of an employee from one (1) position to another which has a lower maximum rate of pay and/or rank.

(6) "Department." The primary organizational unit which is under the immediate charge of a department head who reports directly to the mayor and governing body.

(7) "Department head." Any individual having authority over a primary organizational unit, who on the behalf of the municipality has the authority to hire, assign, direct, discipline and dismiss other employees. The exercise of such authority should not be mere routine or clerical in nature, but should require the use of independent judgment.

(8) "Disciplinary action." Action which may be taken when an employee fails to follow rules outlined in any city policy.

(9) "Dismissal." A type of disciplinary action which separates an employee from employment with the city.

(10) "Employee." An individual who is legally employed and is compensated through the payroll.

(11) "Full-time employees." Individuals who are scheduled to work the equivalent of forty (40) hours or more per week and fifty-two (52) weeks a year.

(12) "Grievance." A dispute arising between an employee and supervisor relative to some aspect of employment, interpretation of regulations and policies, or some management decision affecting the employee.

(13) "Immediate family." Spouse, children, step children, brother, step brother, sister, step sister, parent, step parents, mother and father-in-law, grandparents, grandchildren and step grandchildren.

(14) "Lay-off." The involuntary non disciplinary separation of an employee from a position because of shortage of work, materials, or funds.

(15) "Leave." An approved type of absence from work as provided for by this chapter.

(16) "Maternity leave." An absence due to pregnancy, childbirth, or related medical conditions which shall be treated the same as sick leave.

(17) "Occupational disability or injury leave." An excused absence from duty because of an injury or illness sustained in the course of employment and determined to be compensable under the provisions of the Worker's Compensation Law.

(18) "Overtime." Authorized time worked by an employee in excess of normal working hours or work period.

(19) "Overtime pay." Compensation paid to an employee for overtime work performed in accordance with this chapter.

(20) "Probationary period." The designated period of time after an applicant is appointed or an employee is promoted or transferred in which the employee is required to demonstrate fitness for the position by actual performance.

(21) "Promotion." Assignment of an employee from one (1) position to another which has a higher maximum rate of pay and/or rank.

(22) "Reprimand." A type of disciplinary action, oral or written, denoting a violation of personnel regulations which becomes part of the employee's personnel record.

(23) "Seniority." Length of service as a full-time employee of the city.

(24) "Sick leave." An absence approved by the department head or supervisor due to non-occupational illness or injury or general family/bereavement leave.

(25) "Suspension." An enforced leave of absence for disciplinary purposes or pending investigation of charges made against an employee.

(26) "Temporary employee." An employee holding a position other than permanent, which is of a temporary, seasonal, casual, or emergency nature.

(27) "Transfer." Assignment of an employee from one (1) department to another department.

(28) "Unauthorized absence." Any absence from work, for any scheduled day or partial day without prior approval of the department head.

(29) "Work day" or "work period." Scheduled number of hours an employee is scheduled to work per day or per scheduled number of days. (1976 Code, § 1-802, as replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-203. Coverage. These rules shall apply to all city employees, both full-time and part-time, unless otherwise specifically provided, except employees specifically exempt. Those exempt shall include the following:

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

(2) All members of appointive boards, commissions, or committees.

(3) City attorney.

(4) Consultants, advisors, and counsel rendering temporary professional services.

(5) Independent contractors.

(6) Temporary employees who are hired to meet the immediate requirements of an emergency condition.

(7) Seasonal employees who are employed for not more than three (3) months during the fiscal year. (1976 Code, § 1-803, as replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-204. Recruitment. Individuals shall be recruited from a wide geographic area to assure obtaining well-qualified applicants for the various types of positions. In cases where residents of the city and non-residents are equally qualified for a position, the resident shall receive first consideration.

The department head may prescribe minimum qualifications as required by the nature of the work to be performed. Such requirements shall be made clearly stated a job description which shall be made available to all potential applicants.

The department head may reject any applicant after determining: that the application was not timely filed or was not filed on the prescribed form; that the applicant does not possess the minimum qualifications; that the applicant has established an unsatisfactory employment or personnel record (as evidence by reference check) of such a nature as to demonstrate unsuitability for employment; that the applicant is afflicted with any mental or physical disease or defect that would prevent satisfactory performance of duties; that the applicant is addicted to the habitual use of drugs or intoxicants; that the applicant does not reply to a mail or telephone inquiry; that the applicant fails to accept appointment within the time prescribed in the offer; that the applicant was previously employed and was removed for cause or resigned not in good standing or any other good and significant reason(s). (as added by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-205. Residence requirements. The following residence requirements are required within one (1) year from the employment date.

The city recorder, chief of police, fire chief, utility director, public works director, building and zoning official or any other department head shall be residents of the city or shall reside within a five (5) mile radius of city hall and inside Chester County within one (1) year from the date of employment. He/she shall maintain residence in the required area during their employment.

All full time city employees of the fire department (except the fire chief) shall reside within a ten (10) mile radius of city hall within one (1) year from the date of employment and maintain residence within this area during their employment.

All other full time city employees not listed above shall reside within a fifteen (15) mile radius of city hall or within Chester County within one (1) year from the date of employment and maintain residence within this area during their employment.

The residence requirement for part time employees will be determined on a case by case basis by the department head taking into account the needs of the department and the requirements of the position. (1976 Code, § 1-804, as renumbered by Ord. #356, Dec. 2000, replaced by Ord. #365, Nov. 2001, amended by Ord. #369, Aug. 2002, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-206. Nepotism. No two (2) or more members of the same immediate family shall be employed by the same city department. No immediate family of the mayor or city board members shall be hired in any department of the city while they are in office. Immediate family members of the mayor, the board members, or firemen may serve as volunteer firemen. (1976 Code, § 1-805, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-207. Promotions. (1) Vacancies in positions above entrance level shall be filled by promotion whenever in the judgment of the department head and the mayor it is in the best interest of the department to do so. If the mayor does not agree with the department head's candidate for promotion, the matter may be appealed to the board of aldermen for a final decision. When vacancies in positions above entrance level occur, the department head shall notify all employees within the department and give them an opportunity to apply. Promotions shall be on a competitive basis and shall give appropriate consideration to the applicants' performance, qualifications and seniority. Examinations as allowed by § 4-209 may be used as part of the process to determine the most suitable candidate for a position. Employees who are promoted to a new position or rank will be subject to a new probationary period.

(2) **Temporary promotions.** The department head or mayor may make temporary promotions when it is required for the continued operation of the

department. Temporary promotions that result in a temporary increase in pay may be made only under the following rules:

(a) The position being filled must be a supervisory position. For the purpose of this section only, supervisory positions shall include: police chief, assistant police chief, fire chief, assistant/deputy fire chief, public works director, assistant public works director, utility director, assistant utility director, building and zoning official and city recorder.

(b) The absence of the supervisor must be for a period in excess of ninety (90) consecutive days.

(c) The department head or mayor may approve a temporary pay increase in an amount up to the pay of the supervisor being replaced, taking into account the duties, experience and existing starting and top pay scales. The pay increase shall take effect on the 91st day of the leave and shall be decreased to the previous level of pay immediately upon the return of the supervisor. (1976 Code, § 1-806, as renumbered by Ord. #356, Dec. 2000, replaced by Ord. #365, Nov. 2001, amended by Ord. #398, Oct. 2004, and replaced by Ord. #436, Nov. 2008, and Ord. #529, March 2020 ***Ch3_08-12-21***)

4-208. Transfers. City employees shall be given the opportunity to transfer from one (1) department to another department when a vacancy occurs. In cases where present city employees and new applicants are equally qualified for a position, the city employee shall receive first consideration. Volunteer firemen are considered city employees under this section only if the vacancy is in the fire department. Employees who are transferred to a different department or position will be subject to a new probationary period. (1976 Code, § 1-807, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 ***Ch3_08-12-21***)

4-209. Employment examinations. All appointments may be subject to competitive examination. All examinations shall fairly and impartially test those matters relative to the capacity and fitness of the applicant to discharge efficiently the duties of the positions to be filled. Examinations may consist of one (1) or more of the following types: a written test of required knowledge; an oral interview; a performance test of manual skills; a physical test of strength, agility, and fitness; a written test of mental ability; an evaluation of training and experience. (1976 Code, § 1-808, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 ***Ch3_08-12-21***)

4-210. Post-offer physical examinations and pre-employment drug/alcohol testing. Applicants for positions, prior to their appointment, will be required to undergo a post-offer physical examination and to undergo pre-employment drug test to determine physical and mental fitness to perform

work in the position to which appointment is to be made. Applicants may also be required to submit to an alcohol test prior to employment. Physical examinations and drug/alcohol testing will be performed at no cost to the applicant. Failure to pass a physical examination or drug/alcohol test will make an applicant ineligible for employment with the city if he/she is unable to perform the essential job functions of the position. Drug/alcohol testing will be performed and determination of results will be completed under the city's substance abuse program. (1976 Code, § 1-809, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-211. Hiring of city employees. The department head, with the approval of the mayor, shall have the power to fill vacancies in the city workforce. The department head shall recommend compensation within the pay scale for the position and said compensation shall be approved by the mayor. If the mayor does not agree with the department head's candidate or compensation, the department head may appeal to the board of aldermen for a final decision. All vacancies that are not filled by promotion shall be publicly advertised in a newspaper of general circulation and on the city website.

Only the board of alderman has the authority to increase the size of the city number of total employees in each department, the number of each rank or level within each department and the pay range or scale for each rank or level. (1976 Code, § 1-810, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, Ord. #436, Nov. 2008, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-212. Emergency appointments. In an emergency, the mayor may authorize the appointment of any person to a position to prevent stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed thirty (30) days in any twelve (12) month period. (1976 Code, § 1-811, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-213. Drivers license requirement. Many city employees must drive city vehicles to perform their duties. You must maintain a valid Tennessee drivers license if this is required by your job description. You must notify your department head immediately if you have had changes to your driving privileges or upon your release from confinement if you have been arrested for DUI. (1976 Code, § 1-812, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-214. Notice of arrest. City employees are held to higher standard than the general public. Any city employee that is arrested or indicted on any

charge must notify his/her department head prior to reporting back to work or within eight (8) hours of being released from confinement whichever is less. Any employee's arrest will be reviewed on a case by case basis taking into account the charges and the employee's position with the city. The department head shall make a determination if the employee will be able to return to work or remain on leave until the matter is resolved. (1976 Code, § 1-813, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-215. Probationary period. The probationary period for all regular appointments (except for the non-certified police officers that must attend the training academy) including promotional appointments and transfers, shall be for a period of six (6) months. An additional probationary period of up to three (3) months may be requested in writing by the department head. A copy of the written request for extension shall be given to the probationary employee and a copy shall be filed with the city recorder.

The probationary period for non-certified police officers that must attend the training academy, including promotional appointments and transfers, shall be for a period of twelve (12) months.

The employee's supervisor will tell the employee, during the probationary period, when performance is not satisfactory and is not meeting departmental requirements. At least five (5) days prior to the expiration of an employee's probationary period, the department head shall notify the mayor if the service of the employee has been unsatisfactory, and the department head's recommendation for demotion or release from employment. Said recommendation shall be filed with the mayor and the city recorder. Successful completion of the probationary period does not confirm a property right in the position as stated in § 4-201. (1976 Code, § 1-814, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-216. Attendance. An employee shall be in attendance at regular work in accordance with this chapter and with general department regulations. When an employee is unable to attend work, he/she must notify his/her department head or acting department head as early as possible prior to the beginning of the scheduled work day or shift. In an emergency situation, the employee shall notify his/her department head or acting department head within thirty (30) minutes of the beginning of the scheduled work day or shift.

Unauthorized absence from work for a period of two (2) consecutive work days or one shift day may be considered by the department head as a resignation.

All departments shall keep daily attendance records of their employees. When an employee is absent from work for any reason, the respective department head shall complete a leave report stating; the type of leave, the

amount of time off from work and reason for the absence, so the official leave records may be updated. (1976 Code, § 1-815, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, Ord. #436, Nov. 2008, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-217. Hours of work. The governing body shall establish hours of work per week for each position, based on the needs for service, and taking into account the reasonable needs of the public that may be required to do business with various departments. (1976 Code, § 1-816, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-218. Overtime. Overtime may be authorized by prior approval of the department head. Department heads have the authority to require any employee in his/her department to work extra time as needed to cover shifts, duties or workload. Failure of employees to work extra time as required may be grounds for disciplinary action. Department heads are not eligible to receive any overtime pay.

The work period for the police department (except administrative staff) shall be eighty (80) hours in a fourteen (14) day period. The work period for the fire department (except administrative staff) shall be two-hundred twelve (212) hours in a twenty-eight (28) day period. The work period for all remaining employees shall be forty (40) hours in a seven (7) day period.

All employees, except department heads, required to work overtime shall be paid on the basis of one and one-half (1 1/2) times the hours worked, except for the employees of the fire department. Employees of the fire department that are required to work extra time will be paid based on the minimum regulations of the Fair Labor Standards Act.

All employees called in for overtime when not on duty shall be guaranteed pay for a minimum of one (1) hour. Firemen are guaranteed a minimum of two (2) hours for responding to any emergency fire call when not on duty. No employee, including department heads, will be eligible to receive compensatory time (comp. time). Department heads will not allow any employee to build up compensatory leave or allow any employee to work without being paid for the said work time. (1976 Code, § 1-817, as renumbered by Ord. #356, Dec. 2000, amended by Ord. #360, June 2001, replaced by Ord. #365, Nov. 2001, amended by Ord. #378, June 2003, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-219. Medical, dental and vision insurance. All full-time employees of the city shall be offered group health insurance provided by the city, if financially feasible. The city provides a set dollar amount (adjusted annually) for each employee to use toward the cost of health insurance coverage. Depending on the plan selected by the employee and the cost of the plans, the city funds will pay for a large portion or all of the individual employee's

coverage. Any remaining amount can be used by the employee for dependent coverage under the city's plan. Any premium amount not covered by the city will be deducted from the employee thru a payroll deduction.

Dental and vision insurance is offered to full time employees and officers and their dependents but the cost of this coverage shall be paid by the employee thru a payroll deduction. Insurance will become effective within sixty (60) days from date of employment. Insurance coverage will be of the type and form approved by a majority of the board of mayor and aldermen. (1976 Code, § 1-818, as renumbered by Ord. #356, Dec. 2000, amended by Ord. #360, June 2001, replaced by Ord. #365, Nov. 2001, amended by Ord. #418, Dec. 2006, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-220. Retirement plans. Tennessee Consolidated Retirement System (TCRS): The City has a TCRS defined benefit plan. A portion of the plan is paid for by the city. It is a condition of employment that all full-time employees who have attained six (6) months of continuous employment participate in the TCRS Plan. Employees must contribute five percent (5%) of their wages towards their TCRS retirement. Employees are one hundred percent (100%) vested at five (5) years and are eligible for retirement benefits.

401(k)/457 Retirement Plans: The City of Henderson recognizes the importance of saving for retirement and offers eligible employees an opportunity to participate in the 401(k) and/or the 457 Retirement plans. This is another way to save for retirement thru payroll deduction. The city does not match any employee contributions to the 401(k)/457 plans. (1976 Code, § 1-819, as renumbered by Ord. #356, Dec. 2000, amended by Ord. #360, June 2001, and replaced by Ord. #365, Nov. 2001, Ord. #476, June 2013, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-221. Holidays. All full-time officers and full-time employees shall be given eleven (11) paid holidays each year. These shall be New Years Day, Martin Luther King Jr.'s Birthday, President's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, the Friday after Thanksgiving, Christmas Eve and Christmas Day. When a holiday falls on a Saturday or Sunday, the preceding Friday, or the following Monday shall be observed as a holiday. Due to the necessity of coverage in some departments, some employees will be on duty during a holiday and can either select another day, subject to the approval of the department head, or receive extra pay for the time worked. If another day is selected, it will have to be selected and taken by the end of the next twelve (12) month period following the holiday.

For all full time employee positions except the fire department, a holiday shall be equal to eight (8) hours. Employees of the fire department who work a twenty-four (24) hour shift on a holiday shall be eligible to receive double pay for the twenty-four (24) hours worked or can select another twenty-four (24) hour shift day off subject to the approval of the fire chief. Employees of the fire

department who do not work a holiday shall either receive pay for a twelve (12) hour holiday or select another day in which said employee shall take off twelve (12) hours for the said holiday, subject to the approval of the fire chief. If another day is selected, it will have to be selected and taken by the end of the next twelve (12) month period following the holiday. (1976 Code, § 1-820, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-222. Vacation leave. All full-time officers and full-time employees who have been continuously employed for one (1) year or longer shall be credited with earned vacation leave in accordance with the following schedule:

| <u>Completed Service</u> | <u>Vacation Credit Per Year</u> |
|--------------------------|---------------------------------|
| After 1 year | 40 hours |
| After 3 years | 80 hours |
| After 10 years | 120 hours |
| After 15 years | 160 hours |
| After 20 years | 200 hours |

For employees of the fire department the schedule shall be as follows:

| <u>Completed Service</u> | <u>Vacation Credit Per Year</u> |
|--------------------------|---------------------------------|
| After 1 year | 48 hours |
| After 3 years | 96 hours |
| After 10 years | 144 hours |
| After 15 years | 192 hours |
| After 20 years | 240 hours |

The above schedule and credits are for uninterrupted service computed from the most recent date of continuous employment. New employees shall not be eligible for vacation until they have worked one (1) full year. An employee will not earn any vacation leave for a portion of year that is not fully completed until his/her anniversary date of employment. Vacation leave shall be taken as earned subject to the approval of the department head or acting department head, who shall schedule vacations so as to meet the operational requirements of the department. Department heads should notify and schedule their annual leave with the mayor. Employees may accrue vacation leave to a maximum of three hundred twenty (320) hours for regular employees and four hundred thirty-two (432) hours for the fire department.

If any employee exceeds this maximum, the number of hours in excess of the maximum will automatically be transferred when they are accrued to sick leave and shall be used according to the regulations of § 4-223 unless this excess leave is sold per the rules outlined in the following paragraph. The city will not pay for vacation hours earned but not taken except as outlined in the following paragraph or to an employee who has voluntarily or involuntarily terminated their employment with the city. No terminating employee's accrued hours shall exceed the maximum allowed.

The city will allow an employee to sell unused vacation days under the following rules:

(1) An employee must maintain a minimum of one hundred sixty (160) hours (one hundred ninety two (192) hours in the fire department) of vacation leave.

(2) An employee is only allowed to sell a maximum of eighty (80) hours (ninety six (96) in the fire department) in any budget (fiscal) year.

(3) An employee must use a minimum of forty (40) hours vacation each year in order to be eligible to sell any vacation.

(4) Any vacation sold must be in full day increments (eight (8) hours) for regular employees or half (1/2) shift day (twelve (12) hours) for the fire department.

(5) When an employee exceeds the maximum accrual of vacation, said employee must decide whether to roll the excess to sick leave or to designate the excess to be sold.

(6) The city will pay any employee for unused vacation leave they wish to sell under this policy only twice per calendar year on approximately April 1st and October 1st.

An employee may transfer/donate vacation leave to another city employee under the following rules. The receiving employee must have used all (or is expected to use all) of his/her leave time that is allowed for the absence including unpaid holidays, vacation leave and sick leave (if allowed for the absence) prior to being eligible to receive a donation of vacation leave from another employee. In order to receive a donation of vacation leave, the time away from work must qualify under the regulations of FMLA. The time donated is transferred based on the dollar value of the hours not hour for hour to take care of varied pay rates. The minimum amount of leave that can be transferred is four (4) hours. The donating employee must sign a form authorizing the transfer and should include the total hours transferred, total dollars transferred and the receiving employee. (1976 Code, § 1-821, as renumbered by Ord. #356, Dec. 2000, as replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-223. Sick leave. All full-time officers and full-time employees shall be given credit of eight (8) hours of sick leave with pay for each month of employment. Each full-time employee of the fire department shall be given credit for twelve (12) hours of sick leave pay for each month of employment. All such employees shall periodically be credited in the official records with accumulated sick leave credits in accordance with this accrual rate. Sick leave accrual shall be unlimited.

Sick leave may be taken for the following reasons: personal illness or physical incapacity resulting from causes beyond employee's control, enforced quarantine of the employee in accordance with community health regulations; to keep a doctor or dentist appointment, a death of an immediate family member

or for general family/bereavement leave. Sick leave shall not be considered as a right which an employee may use at his discretion, but rather a privilege. Claiming sick leave when physically fit, except when provided by this section, shall be grounds for discharge.

When an employee is absent due to reasons as provided above, in order to be granted sick leave with pay, he/she must meet the following conditions: notify his/her department head or acting department head prior to the beginning of the scheduled work day, or shift day, of the reason for absence; present, if required by the department head, evidence of such medical examination or nursing visit or inquiry as these officials deem advisable. A department head may require a medical certificate signed by a licensed physician certifying that the employee has been incapacitated for work for the period of absence, nature of the employee's sickness or injury, and that he is again physically able to perform his duties. For regular full-time employees, such medical certificate shall be a must for all sick leave periods in excess of two (2) consecutive work days or for any sick leave in excess of sixteen (16) hours during a calendar month. For employees of the fire department, such medical certificate shall be a must for all sick leave periods in excess of one (1) shift day or twenty-four (24) hours per calendar month. When an employee works his/her final day "physically on the job" due to planned retirement or resignation, he/she must have a medical certificate for any leave claimed as sick leave.

Limited use of sick leave for general family/bereavement leave. Any employee who maintains a minimum balance of forty (40) hours (forty eight (48) hours for the fire department) of sick leave shall be eligible to use forty (40) hours (forty-eight (48) hours for the fire department) of sick leave each calendar year for general immediate family care or bereavement purposes. At no time shall the amount of sick leave be drawn below forty (40) hours, (48 hours for the fire department) by using such general family/bereavement leave nor shall any employee be eligible for more than forty (40) hours (forty-eight (48) for the fire department) during a calendar year. General immediate family care shall include: care for sick members of the immediate family, carry an immediate family member to a doctor or dentist appointment, etc. Bereavement shall be used to attend any funeral other than immediate family members who are covered by regular sick leave. In order to be granted general family/bereavement leave with pay, an employee must meet the following conditions: notify his/her department head or acting department head prior to the beginning of the scheduled work day, or shift day, of the reason for absence and must receive approval of the department head. A department head may request documentation that the leave requested meets the requirement of general family/bereavement leave.

Sick leave may be taken as necessary, but may not be extended or overdrawn beyond the accrual at the time of the absence. An employee who is off work for sick leave, vacation, occupational disability or injury leave or an approved leave of absence for more than one hundred twenty (120) hours or one

hundred forty four (144) hours for the fire department during a calendar month will not earn a sick leave day for that month.

Employees who retire, resign or are dismissed from city employment shall not be paid for any accrued sick leave and shall lose all accrued sick leave credit. However, any employee who is vested in the retirement system and leaves employment with the city will have all accumulated or unused sick leave credited toward their retirement. (1976 Code, § 1-822, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-224. Occupational disability or injury leave. Occupational disability or injury leave shall be granted employees who sustain an injury or an illness during the course of their employment which is determined to be compensable under the provisions of the Worker's Compensation Law. Employees on occupational disability leave shall receive such benefits in lieu of pay as are provided by the Worker's Compensation Law.

Employees on occupational disability leave who have accrued sick leave may choose to receive full pay and charge such disability leave against their accrued sick leave for the first seven (7) calendar days of injury (this should equal five (5) working days for normal employees). If an employee chooses to be paid sick leave for the first seven (7) calendar days, any monies received by the employee for this time as a benefit under workmen's compensation shall be deposited in original check or draft form with the city recorder.

Beginning with the eighth (8th) day of any occupational disability or injury or when an employee chooses to immediately receive workman's compensation benefits, said employee will only be eligible to receive the benefits paid under the Tennessee Workman's Compensation Law. (1976 Code, § 1-823, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-225. Pay Raises and Cost of Living Adjustments (COLAs). The mayor and board of aldermen will conduct a review every twelve (12) months of salaries and pay scales of employees. They will also consider any COLAs based on the cost of living and budget constraints. The board of aldermen will not consider any amendments to salaries or pay scales during the budget year without extenuating circumstances. Amendments to salaries or pay scales and any COLA shall be approved by resolution and shall go into effect on the first payroll ending after July 1 of each year. (1976 Code, § 1-824, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, Ord. #436, Nov. 2008, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-226. Court service. Each police officer who is required to appear in circuit court, general sessions court, or city court, after being lawfully summoned, on his day off, will be paid for the time he is in court, not to be less

than one (1) hour per day. Officers who are not required to attend court sessions will not be paid for time in court. (1976 Code, § 1-825, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-227. Jury duty. Any full-time employee of the city who is lawfully summoned and required to appear for jury duty, by any court of competent jurisdiction, shall receive regular city pay while serving in this capacity. (1976 Code, § 1-826, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-228. Military leave. Any employee who is a member of any military reserve component will be allowed leave under the rules and regulations of Uniformed Services Employment and Re-employment Rights Act (USERRA) and Tennessee Code Annotated, § 8-33-109. The employee shall provide his/her department head a copy of his/her orders immediately upon notice of the leave. Failure to provide orders in a timely manner may result in disciplinary action. (1976 Code, § 1-827, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, Ord. #421, April 2007, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-229. Leave without pay. A department head may grant a full time or part time employee a leave of absence without pay for a period not to exceed eighty (80) hours (ninety six (96) hours for the fire department) during a calendar year a for good and sufficient reason(s). The department head shall take into account the needs of the department and any other leave the requesting employee may have available to use or recently had used in making his/her decision. Nothing in this section shall pertain to any leave required by state or federal law. (1976 Code, § 1-828, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, Ord. #421, April 2007, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-230. Leave records. The city recorder (or his/her office designee) shall keep for each officer and employee, an official record currently up to date at all times showing credits earned and leave taken under this chapter. Department heads shall file leave reports to the city recorder (or his/her office designee) every month. (1976 Code, § 1-829, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-231. 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, or national origin, or because the individual is forty (40) or more year of age. The city 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.

Any employee or applicant who believes that he or she has been subjected to discrimination should immediately report this to his/her department head, the mayor or the city recorder. The city will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee or applicant who makes a claim of discrimination or who is a witness to the discrimination.

The city will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged discrimination. In doing the investigation, the city will try to be fair to all parties involved. If the city determines that discrimination has occurred, disciplinary action will be taken. This disciplinary action may include a reprimand, demotion, discharge, or other appropriate action. The city will attempt to make the disciplinary action reflect the severity of the conduct. (1976 Code, § 1-830, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-232. Prohibitions. No person, applicant or employee shall be favored or discriminated against due to political affiliation. No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or to attempt to secure for any person an appointment to a position with the city, or any increase in wages or other advantage in employment in such a position, for the purpose of influencing the vote or political actions of any person, or for any other consideration. No person shall, directly or indirectly, give, render, pay, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment or promotion, or any advantage in a position with the city. For more Prohibitions, see chapter 6 "Code of Ethics." (1976 Code, § 1-831, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. # 365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-233. Political activity. The following prohibitions and restrictions on political activities shall apply to all city officers and employees, except for elected officials. No city officer or employee shall become a candidate for an elective city office.

No city officer or employee (other than elected officials) shall:

- (1) Become a candidate for an elective city office.
- (2) Initiate or circulate a nominating petition for any candidate for city office.

(3) Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate for city office.

(4) Organize or sell tickets to in a fund-raising activity of a candidate for city office.

(5) Take an active part in managing the political campaign of a candidate for city office.

(6) Act as a recorder, watcher, challenger, or similar officer at the polls on behalf of a candidate for city office.

(7) Drive voters to the polls on behalf of a candidate for city office.

(8) Endorse or oppose a candidate for city office in a political advertisement, broadcast, campaign literature or similar material.

(9) Address a rally or similar gathering of the supporters or opponents of a candidate for city office.

No city officer or employee (other than elected officials), when on duty or in uniform shall:

(1) Directly or indirectly solicit, receive, collect, handle, disburse, or account for assessments, contributions, or other funds for a candidate any elective office.

(2) Organize, sell tickets to, promote or actively participate in a fund-raising activity of a candidate for any elective office.

(3) Take an active part in managing the political campaign of a candidate for any elective office.

(4) Solicit votes in support of or in opposition to a candidate for any elective office.

(5) Act as a recorder, watcher, challenger, or similar officer at the polls on behalf of a candidate for any elective office.

(6) Drive voters to the polls on behalf of a candidate for any elective.

(7) Endorse or oppose a candidate for any elective office in a political advertisement, broadcast, campaign literature or similar material.

(8) Address a rally or similar gathering of the supporters or opponents of a candidate for any elective office.

(9) Initiate or circulate a nominating petition for a candidate for any elective office.

(10) Wear campaign buttons, pins, hats or any other similar attachment, or distribute campaign literature in support or opposition to a candidate for any elective office.

Nothing in this section is intended to prohibit any city officer or employee from privately expressing his or her political views or from casting his or her vote in all elections. (1976 Code, § 1-832, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-234. Sexual harassment policy. The City of Henderson has a strict policy against sexual harassment. Sexual harassment by any employee 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 adversely affects an employee's job or 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 his/her department head, the mayor or the city recorder. The city 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 city will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. In doing the investigation, the city will try to be fair to all parties involved. If the city determines that sexual harassment has occurred, disciplinary action will be taken. This disciplinary action may include a reprimand, demotion, discharge, or other appropriate action. The city will attempt to make the disciplinary action reflect the severity of the conduct.

If it is determined that no harassment has occurred or that there is not sufficient evidence that harassment occurred, this will be communicated to the employee who made the complaint, along with the reasons for this determination. (1976 Code, § 1-833, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-235. Strikes and unions. No full-time employee or full-time officer shall participate in any strike against the city, nor shall he join, be a member, or solicit any other officer or employee to join any labor union which authorizes the use of strikes by government employees. (1976 Code, § 1-834, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-236. Outside employment. No full-time employee or officer may engage in additional employment outside the official hours of duty unless approved by the mayor in writing. Any outside employment is secondary to the city employment and shall not conflict with duties assigned by the city including overtime and extra shifts. (1976 Code, § 1-835, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-237. Grievance procedure. When any grievance comes to or is directed to the attention of any department head, he/she shall discuss within two working days all relevant circumstances with the employee and remove the causes of the grievances to the extent the department head deems advisable and possesses authority. Failing resolution at this level, the grievance shall be referred to the mayor for resolution. Failing resolution at this level the employment hearing board shall hold a hearing on the said grievance and make a final determination. The decision of the employment hearing board is final. (1976 Code, § 1-836, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-238. Disciplinary action. Whenever employee performance, attitude, work habits, or personal conduct fall below a desirable level or any justified reason, any of the following steps may be taken depending on the severity of the offense:

- (1) Reprimand (oral or written),
- (2) Suspension,
- (3) Demotion or
- (4) Dismissal. (1976 Code, § 1-837, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-239. Reprimands. Whenever employee performance, attitude, work habits, or personal conduct fall below a desirable level or any other justified reason, department heads shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In situations where an oral warning has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee by certified mail or given to the employee personally by his/her department head. If written reprimand is personally given to the employee, said employee shall sign a statement that he has received and read the reprimand, but his signature does not necessarily mean the employee agrees with what the reprimand states. A copy of the reprimand shall be placed in the employee's personnel folder. (Ord. #294, March 1996, as renumbered by Ord. #356, Dec. 2000, and replaced by Ord. #365, Nov. 2001, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-240. Suspensions. Whenever employee performance, attitude, work habits, or personal conduct fall below a desirable level or any other justified reason, he/she may be suspended without pay by his/her department head, not to exceed a total of thirty (30) days in any twelve (12) month period. A written statement of the reason for suspension shall be submitted to the employee affected at the time the suspension becomes effective. A copy of the statement

shall be filed with the city recorder. A suspension may be appealed under the rules outlined in § 4-243. In special cases, an employee may be suspended by a majority of the city board of mayor and aldermen, in which case no hearing is required or allowed. Employees may be suspended without pay for a longer period pending an investigation or hearing of any charges against them. An employee determined by the board of mayor and aldermen to be innocent of all charges shall be returned to duty with full pay for the period of suspension. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 **Ch3_08-12-21**)

4-241. Demotions. A department head with written approval of the mayor may demote any employee of his/her department. Reasons for demotion may include, but shall not be limited to: because the position is being abolished and the employee would otherwise be laid off; there is a lack of funds; the employee does not possess the necessary qualifications to render satisfactory service in the position, misconduct, negligence, incompetency, insubordination, unauthorized absence, falsification of records, poor attitude or performance, unsuitable personal conduct, violation of any of the provisions of the charter, municipal code, or departmental policy, the employee voluntarily requests demotion or any other justified reason. A demotion may be appealed under the rules outlined in § 4-243. In special cases, as employee may be demoted by a majority of the city board of mayor and aldermen, in which case no hearing is required or allowed. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 **Ch3_08-12-21**)

4-242. Dismissal. A department head shall have the authority to dismiss any employee in his or her department for just reason(s). Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetency, insubordination, unauthorized absence, falsification of records, poor attitude or performance, unsuitable personal conduct, violation of any of the provisions of the charter, municipal code, or departmental policy, or any other justified reason. In special cases, a majority of the board of mayor and aldermen may dismiss an employee.

The dismissed employee shall be furnished with a written notice, signed by his or her department head containing the reason(s) for the dismissal and his or her right to request a hearing under the rules outlined in § 4-243. This written notice shall be supplied to the employee directly or mailed by certified mail to his last known address within seven (7) calendar days after the dismissal. Copies of this written notice shall be filed with the mayor and the city recorder upon its completion.

If the dismissed employee does not request a hearing, no further action is needed and the department head's action is final. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 **Ch3_08-12-21**)

4-243. Right to a hearing. If an employee requests a hearing before the Employment Hearing Board, he or she shall make the request in writing and said request must be received by the city recorder no more than ten (10) calendar days after the date of suspension, demotion or the written notice of dismissal. If requested, the hearing shall be held as soon as possible after proper notice is given to the members, the employee and witnesses.

None of the hearing rules in this section shall pertain to the suspension, demotion, dismissal of the city attorney, city recorder, police chief, fire chief, public works director, utility director, building and zoning official or any other department head due to the fact that the people in these positions serve at the pleasure of the board of aldermen and only a majority of the full board can make final decisions pertaining to their employment. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-244. City employment hearing board. The city employment hearing board shall consist of the police chief, the fire chief, the utility director, the public works director, the building and zoning official and one (1) randomly selected member of the board of aldermen. The city recorder (and/or his/her designee) shall attend all hearings to take minutes of the meeting. The hearing board shall meet as necessary to deal with employee requests for a hearing when allowed by the personnel policy. Meetings of the hearing board are not open to the public and only persons that are involved such as attorneys, witnesses or persons having personal knowledge of the matter to be brought before the hearing board for the employee or the city may attend. At the hearing, the matter shall be discussed in depth and the department head of the employee, the employee and any other witnesses shall be given an opportunity to speak concerning the matter. All hearing board members will be allowed to vote concerning the matter with the exception of the department head of the employee that requested the hearing. The decision of the hearing board is final.

None of the hearing rules in this section shall pertain to the suspension, demotion, dismissal of the city attorney, city recorder, police chief, fire chief, public works director, utility director, building and zoning official or any other department head due to the fact that the people in these positions serve at the pleasure of the board of aldermen and only a majority of the full board can make final decisions pertaining to their employment. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-245. Separations. All separations of employees from positions in the workforce shall be designated as one (1) of the following types and shall be accomplished in the manner indicated: dismissal, resignation, lay-off, and disability. At the time of separation, all records, equipment, and other items of municipal property in the employee's custody shall be transferred to the department head. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-246. Resignation. An employee may resign by submitting in writing the reasons and the effective date, to his/her department head as far in advance as possible, but a minimum of a two (2) week notice is required. Unauthorized absence from work for a period of two (2) consecutive days or one (1) shift day may be considered by the department head as a resignation. Department head shall forward all notices of resignation to the city recorder immediately upon receipt. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-247. Lay-off. The department head, with written approval of the mayor, may lay-off any employee when they deem 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. Temporary employees shall be laid off prior to probationary or regular employees in the same position. The order of lay-off shall be in reverse order to total continuous time served in the effected position(s) upon the date established for the lay-off to become effective. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-248. Disability. An employee may be separated for disability when unable to perform required duties because of a physical or mental impairment. Action may be initiated by the employee or the municipality, but in all cases it must be supported by medical evidence acceptable to the board of aldermen. The municipality may require an examination at its expense and performed by a licensed physician of its choice. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-249.--4-251. Reserved for future use. (as added by Ord. #365, Nov. 2001, and replaced by Ord. #529, March 2020 *Ch3_08-12-21*)

4-252.--4-260. Reserved for future use. (as added by Ord. #529, March 2020 *Ch3_08-12-21*)

4-261. Amendment of personnel rules. Amendments or revisions to these rules may be recommended for adoption by any member of the board of aldermen, the mayor or the city recorder. Such amendments or revisions of these rules shall become effective upon final passage of the amending ordinance by board of aldermen. (as added by Ord. #529, March 2020 *Ch3_08-12-21*)

CHAPTER 3

SUBSTANCE ABUSE PROGRAM

SECTION

- 4-301. Purpose of the substance abuse program--notice.
- 4-302. Coverage.
- 4-303. General rules.
- 4-304. Prior notice of testing policy.
- 4-305. Job applicant testing: general standard.
- 4-306. Current employee testing: general standard.
- 4-307. Refusal to consent.
- 4-308. Confirmation of test results.
- 4-309. Consequences of confirming a positive test result.
- 4-310. The right to a hearing.
- 4-311. Confidentiality of test results.
- 4-312. Laboratory testing requirements.
- 4-313. Compliance with USDOT Part 199 by the utility department.
- 4-314 – 4-324. Reserved for future use.
- 4-325. Amendment of the substance abuse policy.

4-301. Purpose of the substance abuse program--notice. (1) The City of Henderson has a legal responsibility and management obligation to ensure a safe work environment; as well as paramount interest in protecting the public by insuring that its employees have the physical stamina and emotional stability to perform their assigned duties. A requirement for employment must be an employee who is free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.

(2) Liability could be found against the city and the employee if the city fails to ensure that employees can perform their duties without endangering themselves or the public.

(3) There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impairs an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the city is a crime in this jurisdiction and clearly unacceptable. Therefore the City of Henderson has adopted this written policy to ensure an employee's fitness for duty. (1976 Code, § 1-901, as replaced by Ord. #365, Nov. 2001)

4-302. Coverage. These rules shall apply to all city employees, both full-time and part-time, including volunteer firemen and auxiliary policemen, unless otherwise specifically provided, except employees specifically placed in exempt service. The exempt service shall include the following:

- (1) All elected officials and persons appointed to fill vacancies in elective offices.
- (2) All members of appointive boards, commissions, or committees.
- (3) City attorney.
- (4) Consultants, advisors, and counsel rendering temporary professional service.
- (5) Independent contractors.
- (6) Temporary employees who are hired to meet the immediate requirements of an emergency condition, who are employed for not more than three (3) months.
- (7) Seasonal employees who are employed for not more than three (3) months during the fiscal year.

Certain classes of employees that are placed in exempt service by this section may be required to undergo drug testing per the requirements of § 4-313. (1976 Code, § 1-902, as replaced by Ord. #365, Nov. 2001)

4-303. General rules. (1) Employee use, possession, purchase, sale or transfer of illegal drugs is strictly forbidden. Any of these acts will be grounds for immediate disciplinary action up to and including dismissal regardless of any judicial proceeding or disposition.

(2) Use of prescription drugs in the workplace is also a concern if the employee is advised by his/her physician that such medication may adversely affect their ability to perform assigned duties, thereby endangering themselves, others or city property. It is expected that employees will seek and act on advice from their physician when controlled substances are prescribed. Employees are required to advise their department head of any medication they are taking which could affect their ability to perform assigned duties safely.

(3) All property belonging to the city is subject to inspection at any time without notice as there is not expectation of privacy. Private property on city owned property may be subject to search if the city has reasonable articulable belief that said personal property may contain illegal drugs. Property includes, but is not limited to, vehicles, desks, containers, files, and storage lockers.

(4) City employees who have reason to believe another employee is illegally using drugs or narcotics, or is under the influence of alcohol, shall report the facts and circumstances immediately to his/her department head.

(5) Failure to comply with the intent or provisions of this policy may be used as grounds for disciplinary action up to and including dismissal. (1976 Code, § 1-903, as replaced by Ord. #365, Nov. 2001)

4-304. Prior notice of testing policy. The city shall provide a copy of this substance abuse policy to all city employees and each employee shall sign a statement that they have read the said policy and understood the program.

Job applicants will be supplied a copy of the policy prior to their final appointment. (1976 Code, § 1-904, as replaced by Ord. #365, Nov. 2001)

4-305. Job applicant testing: general standard. Applicants for all classes of employment, both full-time and part-time, except volunteer firemen will be required to undergo a drug and/or alcohol test upon the offer of employment and prior to their final appointment. (1976 Code, § 1-905, as replaced by Ord. #365, Nov. 2001)

4-306. Current employee testing: general standard. Although the city is concerned with its employee's privacy, its primary responsibility is to ensure the safety of its employees and the general public. Any city employee including volunteer fireman, may be required to undergo a urine and/or blood screen test if there is reasonable cause to believe that an employee is under the influence of alcohol or illegal drugs while on duty. Examples of reasonable cause include observable symptoms such as slurred speech, tiredness, workplace accidents, excessive absenteeism or tardiness, glassy or bloodshot eyes, alcohol on breath, or any other justified reason. Any city employee including volunteer firemen may also be tested if there is reasonable cause to believe there is use of illegal drugs because of prior drug abuse, possession of illegal drugs or an arrest for any drug related charge. Department heads and/or supervisors are required to detail in writing, the specific facts which formed the basis for their determination that reasonable cause existed to warrant the testing of an employee. This documentation shall be forwarded to the city recorder. (1976 Code, § 1-906, as replaced by Ord. #365, Nov. 2001)

4-307. Refusal to consent. (1) Job applicant. A job applicant who refuses to consent to a drug and/or alcohol test will be denied employment with the city.

(2) Current employees. An employee who refuses to consent to a drug and alcohol test as it is required by this chapter, will be dismissed immediately. (1976 Code, § 1-907, as replaced by Ord. #365, Nov. 2001)

4-308. Confirmation of test results. An employee or job applicant whose drug test yields a positive result shall be given a second test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.

If the second test confirms the positive test result, the employee or applicant shall be notified of the results in writing by the city recorder or department head. The letter of notification shall identify the particular substance found and its concentration level. (1976 Code, § 1-908, as replaced by Ord. #365, Nov. 2001)

4-309. Consequences of confirming a positive test result. (1) Job applicants. Job applicants will be denied employment with the city if their positive test results have been confirmed.

(2) Current employees. If a current employee's positive test result has been confirmed, the employee is subject to immediate disciplinary action by his/her department head up to and including dismissal. (1976 Code, § 1-909, as replaced by Ord. #365, Nov. 2001)

4-310. The right to a hearing. If disciplinary action is taken against an employee, said, employee is entitled to a hearing before the board of mayor and aldermen as required by the city personnel policy, § 4-240.

An employee who requests a hearing before the board of mayor and aldermen under § 4-240, waives his/her right to confidentiality of the test results and all related information. (1976 Code, § 1-910, as replaced by Ord. #365, Nov. 2001)

4-311. Confidentiality of test results. All information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed.

An employee who requests a hearing before the board of mayor and aldermen under § 4-240, waives his/her right to confidentiality of the test results and all related information. (1976 Code, § 1-911, as replaced by Ord. #365, Nov. 2001)

4-312. Laboratory testing requirements. All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the city. Factors to be considered by the city in selecting a testing facility include:

(1) Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;

(2) Methods of analysis which ensure reliable test results;

(3) Chain-of-Custody procedures which ensure proper identification, labeling, and handling of test samples; and

(4) Retention and storage procedures which ensure reliable results on confirmatory test of original samples. (1976 Code, § 1-912, as replaced by Ord. #365, Nov. 2001)

4-313. Compliance with Part 199 by the utility department. The Henderson Utility Department falls under the guidelines and shall abide by all

sections of the US DOT, Pipeline Safety Regulations revised as of October 1, 1990, Part 199 with all revisions and amendments thereto.

(1) Pre-employment and post accident testing for specified drugs shall be administered as outlined in Part 199.11.

(2) Random testing, using employee and covered private contractor identification numbers shall be administered as outlined in Part 199.11. Tests shall be administered at least quarterly by means of random drawings from all utility employee and covered private contractors.

(3) Reasonable cause testing shall be administered as outlined in Part 199.11. The decision to test shall be substantiated by the director of utilities.

(4) Employee assistance program shall be administered by an organization designated by the city.

(5) Medical review officer shall be appointed by the city.

(6) Samples shall be taken to a certified lab for analysis in accordance with USDOT Pipeline Safety Regulations, Part 199.

(7) All utility employees and applicants shall read and certify that they have read and understood these rules and regulations. (1976 Code, § 1-913, as replaced by Ord. #365, Nov. 2001)

4-314 – 4-324. Reserved for future use. (1976 Code, § 1-914, as replaced by Ord. #365, Nov. 2001)

4-325. Amendment of substance abuse policy. Amendments or revisions to these rules may be recommended for adoption by any member of the board of aldermen, the mayor or city recorder. Such amendments or revisions of these rules shall become effective upon final passage of the amending ordinance by the board of aldermen. (as added by Ord. #365, Nov. 2001)

CHAPTER 4

OCCUPATIONAL SAFETY AND HEALTH PROGRAM¹

SECTION

- 4-401. Title.
- 4-402. Purpose.
- 4-403. Coverage.
- 4-404. Standards authorized.
- 4-405. Variances from standards authorized.
- 4-406. Administration.
- 4-407. Funding the program.

4-401. Title. This section shall provide authority for establishing and administering the occupational safety and health program plan for the employees of City of Henderson, Tennessee. (1976 Code, § 1-1201, as replaced by Ord. #383, Aug. 2003)

4-402. Purpose. The City of Henderson, Tennessee, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

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

- (a) Top management commitment and employee involvement;
- (b) Continually analyze the worksite to identify all hazards and potential hazards;
- (c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
- (d) Train managers, supervisors, and employees to understand and deal with worksite hazards.

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

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

¹State law reference

Tennessee Code Annotated, title 50, chapter 3.

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

(5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the state.

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

(7) Provide for education and training of personnel for the fair and efficient administration of occupational safety the health standards, and provide for education and notification of all employees of the existence of this program. (1976 Code, § 1-1202, as replaced by Ord. #383, Aug. 2003)

4-403. Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Henderson shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Henderson, Tennessee whether part-time or full-time, seasonal or permanent. (1976 Code, § 1-1202, as replaced by Ord. #383, Aug. 2003)

4-404. Standards authorized. The occupational safety and health standards adopted by the City of Henderson, Tennessee are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972 (Tennessee Code Annotated, title 50, chapter 3). (1976 Code, § 1-1203, as replaced by Ord. #383, Aug. 2003)

4-405. Variances from standards authorized. The City of Henderson, Tennessee may, upon written application of the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, Chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the City of Henderson, Tennessee shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the City of Henderson, Tennessee shall be deemed sufficient notice to employees. (as added by Ord. #383, Aug. 2003)

4-406. Administration. For the purposes of this chapter, the mayor is designated as the director of occupational safety and health to perform duties and to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program. The director shall develop a plan of operation for the program and said plan shall become a part of this chapter when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan. (as added by Ord. #383, Aug. 2003)

4-407. Funding the program. Sufficient funds for administering and staffing the program pursuant to this chapter shall be made available as authorized by the City of Henderson, Tennessee. (as added by Ord. #383, Aug. 2003)

CHAPTER 5

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-501. Purpose.
- 4-502. Enforcement.
- 4-503. Miscellaneous rules and regulations.
- 4-504. Disciplinary action.
- 4-505. Travel request.
- 4-506. City vehicle use.
- 4-507. Personal vehicle use.
- 4-508. Lodging.
- 4-509. Meals and incidentals.
- 4-510. Miscellaneous expenses.
- 4-511. Travel reconciliation.

4-501. Purpose. The purpose of this chapter is to bring the city into compliance with Public Acts 1993, chapter 433. This Act requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by Charter or general law."

To provide consistent travel regulations and reimbursement, this chapter is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on city business at city expense. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-502. Enforcement. The mayor of the city or his/her designee shall be responsible for the enforcement of these travel regulations. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-503. Miscellaneous rules and regulations. In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

Authorized travelers are entitled to reimbursement of certain expenditures incurred while traveling on official business for the city. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions, and seminars; and other actual and necessary expenses related to official business as determined by the mayor. The travel expense reimbursement form will be used to document all expense claims.

To qualify for reimbursement, travel expenses must be: directly related to the conduct of the city business for which travel was authorized, and actual, reasonable, and necessary under the circumstances. Expenses considered excessive will not be allowed. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-504. Disciplinary action. Violation of travel rules can result in disciplinary action for employees including possible termination of employment. Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances. Travel fraud will result in criminal prosecution of officials and/or employees. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-505. Travel request. To be eligible for reimbursement of official travel expenses, an employee (other than department heads) must receive travel authorization from his/her department head prior to the travel. A signed authorization form from the department head is required for trips where the combination of all expenses (including mileage, gas, lodging, meals and conference fees) exceeds five hundred dollars (\$500.00).

Department heads, members of the board of aldermen, planning commission, board of zoning appeals or industrial development board must receive travel authorization from the mayor prior to the travel. A signed authorization form from the mayor is required for trips where the combination of all expenses (including mileage, gas, lodging, meals and conference fees) exceeds five hundred dollars (\$500.00) for department heads, members of the board of aldermen, planning commission, board of zoning appeals or industrial development board.

When required, all costs associated with the travel should be reasonably estimated and shown on the travel authorization form. The traveler must prepare an accurate description of the travel and why it is necessary. A copy of the conference program, if applicable, should be attached to the form. If the program isn't available prior to the travel, submit it with the reimbursement form. The signed authorization form shall be filed with accounts payable prior to any travel expense pre-payment or travel reimbursement being made. Travel advances will not be given except in extenuating circumstances but prepayment of registration fees, lodging, etc. will be allowed when paid directly

to the provider. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-506. City vehicle use. When out of town travel is required, the city may require the employee to drive a city vehicle. If a city vehicle is assigned to an employee, special permission must be obtained from the department head or mayor for an employee to use a personal vehicle (see § 4-507 below). If a city vehicle is provided for travel, the traveler is responsible for seeing that the vehicle is used properly and only for acceptable reasons. Acceptable reasons shall be:

- (1) Between places of official business;
- (2) To and from places of temporary lodging; and
- (3) Between either (1) or (2) of this section and restaurants, drug stores or similar places related to comfort and health of the business traveler.

The employee will be reimbursed for expenses directly related to the actual and normal use of the city vehicle when proper documentation is provided. Out-of-town repair cost to the city vehicle in excess of two hundred fifty dollars (\$250.00) must be cleared with the proper city official before the repair is authorized. Fines for traffic or parking violations while using a city vehicle will not be reimbursed by the city. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009 and Ord. #529, March 2020 *Ch3_08-12-21*)

4-507. Personal vehicle use. Employees shall use city vehicles when available. If a city vehicle is assigned to an employee, it shall be assumed that the city vehicle will be used for out of town travel. If an employee is not assigned a city vehicle, a vehicle "may" be made available by the city. In any case, use of a private vehicle for business related travel must be approved in advance by the mayor or department head.

If a city vehicle is not available for business related travel, the city will pay a mileage rate which is set and updated as needed by resolution adopted by the city board. If a city vehicle is available for the employee to use and the employee chooses to use his personal vehicle, the city will pay a reduced mileage rate which is set and updated as needed by resolution adopted by the city board. The department head (as it relates to his/her employees) or the mayor (as it relates to the department heads) can make exceptions and pay the full mileage rate in limited circumstances when an employee wishes to carry family members on travel.

The miles for reimbursement shall be paid from origin to destination and back by the most direct route. Necessary vicinity travel related to official city business will be reimbursed. If an indirect route is taken, a reputable online mileage calculator will be used to determine the mileage to be reimbursed.

If a privately owned automobile is used by two (2) or more travelers on the same trip, only the traveler who owns or has custody of the automobile will be reimbursed for mileage. It is the responsibility of the traveler to provide

adequate insurance to hold harmless the city for any liability from the use of the private vehicle. Travelers will not be reimbursed for automotive repair, breakdowns, or fuel when using their personal vehicle. Fines for traffic or parking violations while using a city vehicle or a personal vehicle will not be reimbursed by the city. (Ord. #270, Aug. 1993, modified, as replaced by Ord. #409, Sept. 2005, Ord. #428, Dec. 2007, Ord. #440, Feb. 2009, Ord. #477, June 2013, and Ord. #529, March 2020 *Ch3_08-12-21*)

4-508. Lodging. The authorized traveler shall attempt to select hotels or motels that are reasonably priced and they should request special government rates if available. Even if it costs more, travelers may be allowed to stay at the officially designated hotel of the meeting or conference. Lodging receipts must be submitted with the reimbursement form. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-509. Meals and incidentals. This city will pay per diem for meals, including related tips and incidentals (M&IE), only when travel is for more than twelve (12) hours at an approved rate per day which is set and updated as needed by resolution adopted by the city board based on the table below. No receipts are required for meals, related tips and incidentals. No more than the approved rate will be paid for meals on any one (1) day for any one (1) traveler.

| When travel is | | Your allowance is |
|---|------------------------|----------------------------------|
| More than 12 hours but less than 24 hours | | 75% of the applicable M&IE rate |
| 24 hours or more, on | The day of departure | 75% of the applicable M&IE rate |
| 24 hours or more, on | Full days of travel | 100% of the applicable M&IE rate |
| 24 hours or more, on | The last day of travel | 75% of the applicable M&IE rate |

When prisoners are transported by police officers and meals are purchased for said prisoner, meals shall be reimbursed to the officer at a reasonable rate provided the officer shall provide the actual receipt for said meal(s). (Ord. #270, Aug. 1993, modified, as replaced by Ord. #440, Feb. 2009, and Ord. #477, June 2013)

4-510. Miscellaneous expenses. Registration fees for approved conferences, conventions, seminars, meetings, and other educational programs will be allowed and will generally include the cost of official banquets, meals,

lodging, and registration fees. Registration fees should be specified on the original travel authorization form and can include a request for a pre-registration fee payment. Parking fees, rental car fees, taxi or other business related expenses will be reimbursed at actual cost as long as the traveler provides receipts.

Laundry, valet service, baggage handling and tips or gratuities paid for such services are considered personal expenses and are not reimbursable. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

4-511. Travel reconciliation. Within ten (10) days of return from travel, the traveler is expected to complete and file the expense reimbursement form. It must be certified by the traveler that the amount due is true and accurate. Lodging, travel, taxi, parking fees, and other required receipts must be attached. A copy of the travel authorization form, when required, should be attached with the reconciliation. If a travel authorization was not required, a brief description of the trip is to be included on the reconciliation. Direct payments made by the city should be included on the travel reconciliation form in the space provided. The travel reconciliation form shall be signed by the department head and the mayor or his/her designee prior to payment being made. (Ord. #270, Aug. 1993, as replaced by Ord. #440, Feb. 2009)

CHAPTER 6

CODE OF ETHICS

SECTION

- 4-601. Applicability.
- 4-602. Definition of "personal interest."
- 4-603. Disclosure of personal interest by official with vote.
- 4-604. Disclosure of personal interest in nonvoting matters.
- 4-605. Acceptance of gratuities, gifts, etc.
- 4-606. Exceptions to § 4-605 (gratuities, gifts, etc.).
- 4-607. Use of information.
- 4-608. Use of multiple time, facilities, etc.
- 4-609. Use of position or authority.
- 4-610. Outside employment.
- 4-611. Ethics complaints.
- 4-612. Violations.

4-601. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed official and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities. (as added by Ord. #421, April 2007)

4-602. Definition of "personal interest." (1) For purposes of §§ 4-603 and 4-604, "personal interest" means:

- (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
- (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
- (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), mother-in-law and father-in-law, sibling(s) and their spouse(s), child(ren) and their spouse(s), stepchild(ren) and their spouse(s), grandchild(ren) and their spouse(s).

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #421, April 2007)

4-603. 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/herself from voting on the measure. (as added by Ord. #421, April 2007)

4-604. Disclosure of personal interest in nonvoting matters. At any publicly advertised meeting, if an official or employee 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, he/she shall publicly disclose said personal interest before the exercise of the discretion. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself/herself from the exercise of discretion in the matter.

In any situation other than at a publicly advertised meeting, if an official or employee must exercise discretion relative to any matter, who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion, shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy recuse himself/herself from the exercise of discretion in the matter. (as added by Ord. #421, April 2007)

4-605. Acceptance of gratuities, gifts, etc. Except as permitted in § 4-606 below, an official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

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

(2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business. (as added by Ord. #421, April 2007)

4-606. Exception to § 4-605 (gratuities, gifts, etc.). Section 4-605 of this chapter is not applicable to the following:

(1) Opportunities, benefits and services which are available on the same conditions as for the general public.

(2) Anything, for which the covered officer or employee or a member of his or her immediate family, pays the fair market value.

(3) Any contribution that is lawfully made to the covered officer or employee's political campaign fund, or to that of his or her immediate family, including any activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials provided for the purpose of improving or evaluating municipal programs, performances, or proposals.

(5) A gift from a relative, meaning those persons related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, any spouse of those listed above and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

(6) Intra-governmental and inter-governmental gifts. For the purpose of this chapter, "intra-governmental gift" means any gift that is given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(7) Ceremonial gifts or awards which have insignificant monetary value.

(8) Unsolicited gifts of nominal value (less than ten dollars (\$10.00)) or trivial items of informational value.

(9) Food or refreshments not exceeding twenty-five dollars (\$25.00) per person in value on a single calendar day; provided that the food or refreshments are: consumed on the premises from which they were purchased or prepared; or catered.

(10) Food, refreshments, lodging, transportation and other benefits provided by an organization or a private company for officials or employees to attend a bonafide training conference, seminar or event provided that it is in the best interest of the city for the employee(s) or official(s) to attend. Travel shall be approved as required by the city's travel policy. (as added by Ord. #421, April 2007)

4-607. Use of information. (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #421, April 2007)

4-608. 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 agreement, contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #421, April 2007)

4-609. Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself/herself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #421, April 2007)

4-610. Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy. Outside employment must be approved in writing by the mayor for all full-time employees. (as added by Ord. #421, April 2007)

4-611. Ethics complaints. (1) The city attorney is designated as the ethics officer of the municipality. Upon the 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) Complaints can take place in two (2) different formats:

(a) Formal written complaint. A formal written complaint shall include all details of the alleged violation including dates and shall be signed by the complainant and notarized. Formal written complaints shall be reviewed by the city attorney as outlined in this section.

(b) Informal complaint. If the mayor or any department head receives information about a possible violation of this chapter by any other means than a formal complaint, they shall investigate the matter and if it appears a violation has occurred, they shall forward the matter to the city attorney for a formal investigation. If no proof of a violation is found by the mayor or department head, no further action is needed.

(3) (a) The city attorney shall investigate any credible complaint against any official or employee for the alleged 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. The city attorney shall report his findings in writing to the governing body.

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

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

(5) When a violation of this code of ethics also constitutes a violation of a personnel policy or rule, the violation shall be dealt with as a violation of both policies and any punishment allowed by either policy or code could apply. (as added by Ord. #421, April 2007)

4-612. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #421, April 2007)

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

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

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

- 5-101. Fiscal year.
5-102. Annual budget required.

5-101. Fiscal year. The fiscal year of the City of Henderson shall begin on July 1 and end on June 30. (1976 Code, § 6-101)

5-102. Annual budget required. A budget shall be prepared each year for the City of Henderson, setting out the anticipated revenues and disbursements, and said budget must be approved and adopted by a majority vote of the board of mayor and aldermen. The approved and adopted budget shall remain on file in the office of the city recorder, city hall, and shall be made available for public inspection at any reasonable time. (1976 Code, § 6-102)

¹Charter references
Delinquency penalties: § 15.
Delinquent date: § 15.
Due date: § 15.

CHAPTER 2

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

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

5-201. When due and payable.¹ Taxes levied by the city against real property shall become due and payable annually on the date fixed in the charter.² (1976 Code, § 6-201)

5-202. When delinquent--penalty and interest.³ All unpaid real property taxes shall become delinquent on the date fixed in the charter and shall thereupon be subject to such penalty and interest as is authorized and prescribed by the charter.² (1976 Code, § 6-202)

¹State law references

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

²Charter reference: § 15.

³Charter and state law reference

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

CHAPTER 3

PRIVILEGE TAXES

SECTION

5-301. Tax levied.

5-302. License required.

5-301. Tax levied. Except as otherwise specifically provided in this code, there is hereby levied on all vocations, occupations, and businesses declared by the general laws of the state to be privileges taxable by municipalities, an annual privilege tax in the maximum amount allowed by state laws. The taxes provided for in the state's "Business Tax Act" (Tennessee Code Annotated, § 67-4-701, et seq.) are hereby expressly enacted, ordained, and levied on the businesses, business activities, vocations, and occupations carried on within the city at the rates and in the manner prescribed by the act. The proceeds of the privilege taxes herein levied shall be apportioned to the various city funds according to the subdivision of the property tax levy. (1976 Code, § 6-301)

5-302. License required. No person shall exercise any such privilege within the city without a currently effective privilege license, which shall be issued by the recorder to each applicant therefor upon the applicant's compliance with all regulatory provisions in this code and payment of the appropriate privilege tax. (1976 Code, § 6-302)

CHAPTER 4

WHOLESALE BEER TAX

SECTION

5-401. To be collected.

5-401. To be collected. The recorder is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6.¹ (1976 Code, § 6-401)

¹State law reference

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

CHAPTER 5

PURCHASING

SECTION

- 5-501. Official assigned as purchasing agent.
- 5-502. Rules for purchases up to \$4,000.00.
- 5-503. Rules for purchases between \$4,000.00 and \$10,000.00.
- 5-504. Advertising and bidding rules for purchases greater than \$10,000.00.
- 5-505. Rules for purchases of fixed assets or equipment.
- 5-506. Department head responsibilities.
- 5-507. Purchasing agent responsibilities.
- 5-508--5-509. [Deleted.]

5-501. Official assigned as purchasing agent. The mayor or city recorder shall act as the purchasing agent for the City of Henderson. Purchasing procedures, the powers of the purchasing agent and the responsibilities of the department heads concerning purchasing will be outlined in the following sections. (1976 Code, § 1-1301, as replaced by Ord. #438, Jan. 2009)

5-502. Rules for purchases up to \$4,000.00. Department heads are allowed to make purchases of up to four thousand dollars (\$4,000.00) without prior board approval. For purchases in an amount of up to five hundred dollars (\$500.00), the department head can make the purchase without receiving a purchase order unless he/she is purchasing an item that would be defined as a fixed asset (equipment with a life span of more than one (1) year). The rules that apply to the purchase of fixed assets or equipment are covered in § 5-505. For all purchases over five hundred dollars (\$500.00) the department head shall receive a signed purchase order from the purchasing agent before ordering the said item(s). The one (1) exception to this rule is for purchases between five hundred dollars (\$500.00) and one thousand five hundred dollars (\$1,500.00) related to the maintenance of existing equipment or vehicles where the exact amount of the repairs cannot be determined. In these cases, the purchase order may be obtained after the purchase and/or repair is completed. Only the department head, his/her designee, recorder, or the mayor can make a request for a purchase order. (1976 Code, § 1-1302, as amended by Ord. #306, June 1997, and replaced by Ord. #438, Jan. 2009)

5-503. Rules for purchases between \$4,000.00 and \$10,000.00. All purchases, leases or lease-purchase arrangements with expenditures of more than four thousand dollars (\$4,000.00) but less than ten thousand dollars (\$10,000.00) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least three (3) competitive quotes. All purchases, leases or lease-purchase arrangements with

expenditures of more than two thousand dollars (\$2,000.00) but less than four thousand dollars (\$4,000.00) in any fiscal year may be made in the open market without public advertisement, but shall, whenever possible, be based upon at least two (2) competitive quotes.

All purchases, leases or lease-purchase arrangements with expenditures of more than four thousand dollars (\$4,000.00) but less than ten thousand dollars (\$10,000.00) shall receive prior approval by the board of aldermen. The description of the item(s) shall be prepared by the department head and submitted along with the quotes received to the board of aldermen for approval of purchase. The board of aldermen shall not approve a purchase until they determine that adequate funds are budgeted and available for the purchase. The board of aldermen may require the department head to accept bids or proposals on such items if they deem it is in the best interest of the city to do so. A purchase order shall be issued by the purchasing agent after the purchase is approved by the board.

If a purchase is over four thousand dollars (\$4,000.00) and it is necessary due to an actual emergency, equipment breakdown or unforeseeable circumstances and the replacement or repair is required prior to the next city board meeting in order for the department to conform to state or federal regulations, prevent possible fines/citations or maintain essential services to the community, the mayor may approve the purchase. The purchase shall be reviewed and approved by the board of aldermen at its next meeting. (Ord. #306, June 1997, as replaced by Ord. #438, Jan. 2009)

5-504. Advertising and bidding rules for purchases greater than \$10,000.00. For all purchases of equipment or material of ten thousand dollars (\$10,000.00) or more, a detailed description of the item(s) shall be prepared by the department head and submitted to the mayor for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the mayor may authorize the department head to advertise for bids or proposals. The mayor shall reserve the right to refer the decision to bid any purchase to the board of aldermen.

For all major public works or utility construction projects of ten thousand dollars (\$10,000.00) or more where costs may be incurred for engineering design and plans, a detailed description of the project shall be prepared by the department head and submitted to the board of aldermen for authorization to call for bids or proposals. After the determination that adequate funds are budgeted and available for a purchase, the board of aldermen may authorized the department head to perform the necessary design work and to advertise the bids or proposals.

The award of purchases, leases or lease purchases of ten thousand dollars (\$10,000.00) or more shall be made by the board of aldermen to the lowest responsible bidder. The purchasing agent shall issue a purchase order to the lowest responsible bidder selected by the board of aldermen.

Purchases amounting to ten thousand dollars (\$10,000.00) or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the board of aldermen:

(1) Sole source of supply or proprietary products as determined after complete search by the respective department head, with approval of the board of aldermen.

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

(3) Investments in or purchases from the pooled investment fund established pursuant to Tennessee Code Annotated (state investment pool).

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

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

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

(7) 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.

(8) Purchases of used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any private individual or entity as provided in Tennessee Code Annotated.

(9) Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.

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

(11) Purchases from Tennessee state industries.

(12) Professional service contracts as provided in Tennessee Code Annotated.

(13) Tort liability insurance as provided in Tennessee Code Annotated.

(14) Purchases of fuels, fuel products, or perishable commodities. (1976 Code, § 1-1304, as amended by Ord. #306, June 1997, and replaced by Ord. #438, Jan. 2009)

5-505. Rules for purchases of fixed assets or equipment.

Department heads are required to have a purchase order prior to the purchase of any equipment that is deemed to be a fixed asset according to generally accepted accounting principles regardless of the cost of the item.

The department head shall report to the city recorder or his designee any time a piece of equipment or fixed asset is delivered. The city recorder or his designee is to affix upon the asset an identification tag when necessary and collect information to enter the asset in the city's fixed asset record keeping system. The department head will be responsible for ensuring that all city equipment and property in his department is accounted for and in its proper

place. The city recorder or his designee will perform an inventory of any or all city equipment at times when he deems it feasible to do so but said inventory will be performed at least once every twenty-four (24) months. (1976 Code, § 1-1305, as amended by Ord. #306, June 1997, modified, and replaced by Ord. #438, Jan. 2009)

5-506. Department head responsibilities. The department head or his/her designee shall perform the following tasks before any purchase order is requested:

- (1) Obtain prices on comparable materials, supplies, equipment or services to be purchased from a group of vendors.
- (2) Determine the best possible product using objective analysis of price, quality, and vendor reputation, etc.
- (3) Provide complete information to the purchasing agent including:
 - (a) A complete and accurate description of item(s) to be purchases.
 - (b) The vendor recommended by the department head, including name and mailing address or other information needed.
 - (c) Price and number of item(s) needed.
 - (d) Date item(s) are needed.
 - (e) Reason the item(s) are needed and for whom it is needed.

The department head shall not split orders to circumvent any provision of the municipal code, charter or any policy established by the city, nor shall purchases be made for the sole purpose of using up budgetary balances. No department head shall make any purchase that would overdraw the money appropriated in any line item in the budget without first receiving approval from the board to amend the said budget line item. (1976 Code, § 1-1303, as replaced by Ord. #438, Jan. 2009)

5-507. Purchasing agents responsibilities. Purchase orders are to be issued only after the requesting department head provides the information outlined in § 5-506 above to the purchasing agent. The purchasing agent shall be the only person eligible to issue a purchase order. Purchase orders shall be written so that they are clear, concise and complete.

Before issuing a purchase order, the purchasing agent must ensure that sufficient funds are available in the budget line item to purchase said item(s). The city recorder has the authority to determine the appropriate budget line item a purchase is charged to, not the department head. If there is sufficient funds in the line item, the purchase is to be delayed until the board of aldermen makes a decision as to whether or not to amend the budget line item to cover the cost of the purchase.

The purchasing agent shall aid and cooperate with all departments in meeting their needs for operating supplies, equipment, and services. The purchasing agent shall process all purchase orders with the least possible delay.

The purchasing agent has the authority to refer any purchase to the city board of aldermen for a decision if he feels that the purchase of the item(s) is not in the best interest of the city or if he feels the board should be aware of purchase before it is made. The decision to refer a purchase to the board is final and a purchase order will not be issued until after board action.

Purchase orders are to be prepared on forms that contain at least four (4) copies:

(1) White (original) copy is filed with the city recorder or his designee and is the city's permanent record that is to be kept in numerical order for audit purposes. The permanent record may be in digital format.

(2) A copy is mailed or faxed to the vendor to be used as authority to furnish the city the materials or services indicated.

(3) A copy is to be sent to the requesting department head for his files.

(4) A copy shall be attached to and filed with the paid invoice.

The purchasing agent shall be responsible for compliance with these procedures and the Municipal Purchasing Law of 1983, as amended, including required records and reports, as if they were set out herein and made part hereof and within definitions of words and phrases from the law as herein defined. (1976 Code, § 1-1306, as replaced by Ord. #438, Jan. 2009)

~~5-508--5-508. [Deleted.]~~ (1976 Code, §§ 1-1307 and Ord. #306 were deleted by Ord. #438, Jan. 2009)

TITLE 6**LAW ENFORCEMENT****CHAPTER**

1. POLICE AND ARREST.
2. WORKHOUSE.

CHAPTER 1**POLICE AND ARREST¹****SECTION**

- 6-101. Policemen subject to chief's orders.
- 6-102. Policemen to preserve law and order, etc.
- 6-103. Policemen to wear uniforms and be armed.
- 6-104. When policemen to make arrests.
- 6-105. Policemen may require assistance.
- 6-106. Disposition of persons arrested.
- 6-107. Police department records.
- 6-108. Auxiliary police force.

6-101. Policemen subject to chief's orders. All policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1976 Code, § 1-401, modified)

6-102. Policemen to preserve law and order, etc. Policemen shall preserve law and order within the city. They shall patrol the city and shall assist the city court during the trial of cases. Policemen shall also promptly serve any legal process issued by the city court. (1976 Code, § 1-402)

6-103. Policemen to wear uniforms and be armed. All policemen shall wear such uniform and badge as the board of mayor and aldermen shall authorize and shall carry a service pistol at all times while on duty unless otherwise expressly directed by the chief for a special assignment. (1976 Code, § 1-403, modified)

¹Municipal code reference

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

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

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

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

(3) Whenever a felony has in fact been committed and the officer has reasonable cause to believe the person has committed it. (1976 Code, § 1-404)

6-105. Policemen may require assistance. It shall be unlawful for any person willfully to refuse to aid a policeman in maintaining law and order or in making a lawful arrest when such a person's assistance is requested by the policeman and is reasonably necessary. (1976 Code, § 1-405)

6-106. Disposition of persons arrested. Unless otherwise authorized by law, when any person is arrested for any offense other than one involving drunkenness he shall be brought before the city court for immediate trial or allowed to post bond. When the arrested person is drunk or when the city judge is not immediately available and the alleged offender is not able to post the require bond, he shall be confined. (1976 Code, § 1-406, modified)

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

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

(2) All arrests made by policemen.

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities of the police department. (1976 Code, § 1-407)

6-108. Auxiliary police force. The auxiliary police force shall be under the supervision and control of the Chief of Police of the Henderson Police Department of the City of Henderson. All auxiliary policemen shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue. (1976 Code, § 1-408)

¹Municipal code reference

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

CHAPTER 2

WORKHOUSE

SECTION

6-201. Jail to be used.

6-201. Jail to be used. The jail in the Henderson - Chester County Public Safety Building is hereby designated as the municipal workhouse, subject to such contractual arrangement as may be worked out with the county. (1976 Code, § 1-601)

TITLE 7

FIRE PROTECTION AND FIREWORKS¹

CHAPTER

1. MISCELLANEOUS.
2. FIRE CODE.
3. FIRE DEPARTMENT.
4. FIRE SERVICE OUTSIDE CITY LIMITS.
5. FIREWORKS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 7-101. Fire chief designated as a special police officer.
- 7-102. Open burning.
- 7-103. Fire hydrant access.
- 7-104. Resetting of fire alarm system.
- 7-105. Tampering with fire protection equipment and appliances.
- 7-106. Failure to evaluate building upon activation of the fire alarm.

7-101. Fire chief designated as a special police officer. The City of Henderson Fire Chief is designated as a "Special Police Officer" for the purposes of issuing citations for violations of title 7 "Fire Protection and Fireworks" of the municipal code only. (1976 Code, § 7-101, as replaced by Ord. #475, April 2013)

7-102. Open burning. (1) It shall be unlawful for any person, firm, or corporation to start, or cause to be started, any open-air fire within the corporate limits of the City of Henderson without first having obtained a permit from the City of Henderson Fire Department. The city fire department shall be solely responsible for administering said permits.

(2) There shall be no fee for said burn permit. The fire department shall only issue the permit to burn after confirming weather conditions are suitable for burning.

¹Charter references
§§ 8(13) and 8(20).

Municipal code reference

Building, utility and housing codes: title 12.

(3) Persons setting fires shall be responsible for staying with the fire until it is out and for supplying a water hose or equipment to control the fire if needed.

(4) No one shall burn any household garbage, shingles, vinyl siding, tires, any petroleum products or any other item(s) in which burning is restricted by state law.

(5) Any person, firm or corporation who is caught burning without said permit, will be issued a warning citation on the first offense. All second offense violators shall be issued a citation. Any person starting a fire after being denied a permit to burn by the fire department will be issued a citation on the first offense. Any violations of this section shall be a misdemeanor punishable upon conviction thereof, by a fine of not less than ten dollars (\$10.00) or more than fifty dollars (\$50.00), plus court cost for each violation. Each day shall be considered a separate violation. (1976 Code, § 7-102, as replaced by Ord. #377, June 2003, and Ord. #475, April 2013)

7-103. Fire hydrant access. No person shall park a motor vehicle or keep a fence, growth, trash, or other material near any fire hydrant that would prevent such hydrants from being immediately discernible or in any other manner hinder the fire department from gaining immediate access to a fire hydrant. Three feet (3') operating access shall be provided around the rear side of the hydrant. No required fire hydrant shall be installed more than ten feet (10') from an all weather surface roadway or parking lot unless approved by the fire chief. (as added by Ord. #475, April 2013)

7-104. Resetting of a fire alarm system. Once an automatic or manual fire alarm has initiated and caused the response of the fire department, it shall be unlawful for any person(s) to reset or silence the fire alarm control panel until the authorization of the fire official has been obtained. Persons who violate this section may be cited to Henderson Municipal Court and face a fine not to exceed fifty dollars (\$50.00) for each violation, in addition to court costs. (as added by Ord. #520, Jan. 2019 *Ch3_08-12-21*)

7-105. Tampering with fire protection equipment and appliances. Unless approved by the fire official, no person shall shut off, disconnect, obstruct, cover, remove, destroy, tamper with, or cause or permit to be shut off, disconnected, obstructed, covered, removed, destroyed, or tampered with, any part of any fire alarm system, smoke alarm, fire sprinkler system, fire suppression system, fire standpipe system, fire hose cabinet, portable fire extinguisher, water main, fire hydrant, or any other device or appliance used for fire protection, fire detection, fire suppression, or carbon monoxide detection and alarm. Persons who violate this section may be cited to Henderson Municipal Court and face a fine not to exceed fifty dollars (\$50.00) for each violation, in addition to court costs. Persons tampering with such equipment may also face

criminal prosecution and civil actions in state court seeking judgment for any damages caused by their actions. This section shall not apply to any authorized person(s) making necessary repairs to said fire protection equipment. (as added by Ord. #520, Jan. 2019 *Ch3_08-12-21*)

7-106. Failure to evacuate building upon activation of the fire alarm. It shall be unlawful for any person to fail to evacuate a building upon the activation of the building's fire alarm system. The building owner/operator shall be responsible for communicating both the building's evacuation plan and mandatory evacuation requirement to all occupants and to ensure that the building is evacuated upon activation of the fire alarm system. Persons who violate this section by failing to evacuate may be cited to Henderson Municipal Court and face a fine not to exceed fifty dollars (\$50.00) for each violation, in addition to court costs. (as added by Ord. #535, Feb. 2021 *Ch3_08-12-21*)

CHAPTER 2

FIRE CODE

SECTION

- 7-201. Fire code adopted.
- 7-202. Amendments.
- 7-203. Appendices.
- 7-204. Violations.
- 7-205. Permit fees.
- 7-206. Conflicts with the Henderson Municipal Code.

7-201. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the International Fire Code,¹ 2018 edition (the fire code) as amended below, is hereby adopted by reference and included as a part of this code. Pursuant to the requirement of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Fire Code has been filed with the city recorder and is available for public use and inspection. 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. (Ord. #321, Dec. 1998, as replaced by Ord. #475, April 2013, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

7-202. Amendments. (1) Whenever the fire code refers to "applicable governing authority" it shall be a reference to the City of Henderson Board of Mayor and Aldermen.

(2) Whenever the fire code refers to the "board of appeals" it shall be a reference to the board of zoning appeals.

(3) When the "fire official" or "fire code official" is named, it shall mean such person as the board of mayor and alderman shall have appointed or designated as fire chief.

(4) Whenever the fire code refers to the fire prevention department it shall be deemed to be the Henderson Fire Department. (Ord. #321, Dec. 1998, as replaced by Ord. #475, April 2013, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

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

7-203. Appendices. The Fire Code herein adopted incorporates the following appendices to the International Fire Code, 2018 edition by reference as if fully and completely copied at length herein.

Appendix B - Fire Flow Requirements for Buildings

Appendix C - Fire Hydrant Locations and Distributions

Appendix D - Fire Apparatus Access Road

Appendix E - Hazard Categories

Appendix F - Hazard Ranking

Appendix G - Cryogenic Fluids - Weight and Volume Equivalentents

Appendix H - Hazardous Materials Management Plan (HMMP)
and Hazardous Material Inventory Statement (HMIS)
Instructions

Appendix I - Fire Protection Systems - Noncompliant Conditions. (Ord. #321, Dec. 1998, as replaced by Ord. #475, April 2013, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

7-204. Violations. It shall be unlawful for any person to violate or fail to comply with any provisions of this code as herein adopted by reference and amended. The fire chief shall have the authority to take any and all steps necessary ensure compliance with the fire code. The fire chief or any career fireman that is a certified fire inspector by the State of Tennessee may issue written notices of the violation(s) with a deadline for making the corrections as outlined by the fire code. If the violation is not corrected within the timeframe stated in the notice, the fire chief is hereby authorized to issue citations for violation(s) of the fire code. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed or continued, and upon a hearing and conviction by the city [municipal] court judge of any such violation, such person shall be fined and/or punished within the limits and as provided by state laws for each violation. The forgoing notwithstanding, the city reserves the right and may elect to file a nuisance lawsuit in chancery court to ensure compliance with the fire code when necessary to protect persons or property. (Ord. #321, Dec. 1998, as replaced by Ord. #475, April 2013, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

7-205. Permit fees. All fees are set forth in a "schedule of building permit fees" as authorized and approved from time to time by resolution of the board of mayor and alderman and will be posted in the building and zoning department. (Ord. #321, Dec. 1998, as replaced by Ord. #475, April 2013, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

7-206. Conflicts with the Henderson Municipal Code. On issues involving safety, when a conflict arises between the International Fire Code and the Henderson Municipal Code, the fire code provisions shall supersede and

apply in those matters involving safety of the public. If conflicts exist concerning administrative matters and the organization of the fire department, the municipal code provisions shall supersede the fire code and municipal code provisions shall control such administrative matters. (as added by Ord. #475, April 2013, and replaced by Ord. #534, Dec. 2020 *Ch3_08-12-21*)

CHAPTER 3

FIRE DEPARTMENT¹

SECTION

7-301. Establishment, equipment, and membership.

7-302. Objectives.

7-303. Organization, rules, and regulations.

7-304. Records and reports.

7-305. Tenure and compensation of members.

7-306. Chief responsible for training and maintenance.

7-307. Fire chief to be assistant to state officer.

7-301. Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the board of mayor and aldermen. All apparatus, equipment, and supplies shall be purchased by or through the city and shall be and remain the property of the city. The fire department shall be a combination department and shall consist of both career firemen as well as volunteer (paid per call) firefighters. The career members shall be composed of a fire chief appointed by the board of mayor and aldermen and such number of physically-fit subordinate officers and firemen as the board of mayor and aldermen shall authorize. All career members will serve under the personal rules and regulations contained in title 4 of the municipal code. The fire chief shall appoint a sufficient number of volunteers (paid per call) firefighters for the efficient operation of the fire department. (1976 Code, § 7-301, as replaced by Ord. #475, April 2013)

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

- (1) To prevent uncontrolled fires from starting.
- (2) To prevent the loss of life and property because of fires.
- (3) To confine fires to their places of origin.
- (4) To extinguish uncontrolled fires.
- (5) To prevent loss of life from asphyxiation or drowning.
- (6) To perform such rescue work as its equipment and/or the training of its personnel makes practicable. (1976 Code, § 7-302, as replaced by Ord. #475, April 2013)

7-303. Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and

¹Municipal code reference

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

regulations as shall be necessary for the orderly and efficient operation of the fire department, under the direction of the board of mayor and aldermen. (1976 Code, § 7-303, as replaced by Ord. #475, April 2013)

7-304. Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, citations, apparatus, equipment, personnel, and work of the department. The fire chief shall submit any written reports on such matters as requested by the mayor and/or the board of aldermen. (1976 Code, § 7-304, as replaced by Ord. #475, April 2013)

7-305. Tenure and compensation of members. The fire chief shall serve at the pleasure of the board of mayor and aldermen. All career members (both full time and part time) will serve under the personnel rules and regulations contained in title 4 of the municipal code.

However, so that adequate discipline may be maintained within the volunteer members, the chief shall have the authority to suspend, demote or discharge volunteer members of the fire department when he deems such action to be necessary for the good of the department.

All members of the fire department, both career and volunteer (paid per call), shall receive such compensation for their services as the board of mayor and aldermen may from time to time prescribe. (1976 Code, § 7-305, modified, as replaced by Ord. #475, April 2013)

7-306. Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firemen and for maintenance of all property and equipment of the fire department, under the direction of the board of mayor and aldermen. (1976 Code, § 7-306, as replaced by Ord. #475, April 2013)

7-307. Fire chief to be assistant to state officer. Pursuant to requirements of Tennessee Code Annotated, § 68-102-108, the chief of the fire department is designated as an assistant to the State Commissioner of Commerce and Insurance and is subject to all the duties and obligations imposed by Tennessee Code Annotated, title 68, chapter 102, and shall be subject to the directions of the commissioner in the execution of the provisions thereof. (1976 Code, § 7-308, as replaced by Ord. #475, April 2013)

CHAPTER 4

FIRE SERVICE OUTSIDE CITY LIMITS

SECTION

7-401. Fire service outside the city limits.

7-402. Use of fire equipment to protect city property and personnel.

7-401. Fire service outside the city limits.¹ Generally the equipment and personnel of the fire department shall only be used within the corporate limits with the following exceptions:

(1) Upon request of mutual aid as authorized by the fire chief or mayor pursuant to the authority of:

(a) 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.

(b) By resolution of the board of aldermen under the authority of 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.

(c) By resolution of the board of aldermen under the authority of Tennessee Code Annotated, § 6-54-601(a), which authorizes municipalities to:

(i) Enter into mutual aid agreements with other municipalities, counties, privately incorporated fire departments, utility districts and metropolitan airport authorities which provide

¹Charter reference: § 8(20).

for firefighting service, and with industrial fire departments, to furnish one another with fire fighting assistance.

(2) When the fireman on duty, using the best information available, determines that there is an immediate threat to a life or lives and the response would improve the odds of survival to those threatened; or

(3) Extraction of automobile accidents victims in emergency situations when requested by a police officer, highway patrolman, sheriff's deputy or EMS on the scene.

The fireman on duty shall never leave the corporate limits until he/she confirms that adequately trained personnel are in route to the fire station to provide fire protection within the corporate limits. (1976 Code, § 7-307, as replaced by Ord. #475, April 2013)

7-402. Use of fire equipment to protect city property and personnel. The mayor, fire chief or assistant fire chief may authorize the use of fire equipment and personnel to protect any city owned property or city personnel while performing their official duties outside the corporate limits. (as added by Ord. #475, April 2013)

CHAPTER 5

FIREWORKS

SECTION

7-501. Fireworks generally unlawful.

7-502. Special events.

7-501. Fireworks generally unlawful. The detonation of fireworks and the sale thereof is hereby declared to be unlawful within the corporate limits of the City of Henderson. Any business that is annexed and that is licensed and operating to sell fireworks with a state year-long permit will be allowed to continue to operate. The term "fireworks" shall mean and include any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible and/or audible effect by combustion, explosion, deflagration or detonation and shall include but not be limited to; blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, the type of unmanned balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, roman candles, daygo bombs, sparklers, or other fireworks of like construction and any fireworks containing an explosive or flammable compound or any tablets or other device containing any explosive substance except that the term "fireworks" shall not include model rockets and model rocket engines designed and sold and used for the purpose of propelling recoverable aerial models and shall not include toy pistols, toy canes, toy guns or other devices in which paper or plastic caps containing not in excess of an average of twenty-five hundredths (25/100) of a grain of explosive content per cap manufactured in accordance with the United States Department of Transportation regulation for packing and shipping of toy, paper or plastic caps are used and toy, paper and/or plastic caps manufactures as provided therein, the sale and use of which shall be permitted at all times. (as added by Ord. #475, April 2013)

7-502. Special events. From time to time the city, civic organizations, non-profits, schools or the university may desire to sponsor a special events or celebration that may involve professional pyro-technic displays. Section 7-501 of this municipal code shall not apply to any discharge or display of fireworks by a licensed professional sponsored by the City of Henderson or any other group listed above that receives prior approval of the fire chief. (as added by Ord. #475, April 2013)

TITLE 8**ALCOHOLIC BEVERAGES¹****CHAPTER**

1. PACKAGE LIQUOR STORES.
2. BEER.
3. BROWN-BAGGING.

CHAPTER 1**PACKAGE LIQUOR STORES****SECTION**

- 8-101. Alcoholic beverages subject to regulation.
- 8-102. Application for certificate.
- 8-103. Applicant to agree to comply with laws.
- 8-104. Applicant to appear before board of mayor and aldermen; duty to give information.
- 8-105. Action on application.
- 8-106. Applicants for certificate who have criminal record.
- 8-107. Where establishments may be located.
- 8-108. Retail stores to be on ground floor; entrances.
- 8-109. No consumption on premises.
- 8-110. Amusement devices and seating facilities prohibited in retail establishments.
- 8-111. Inspection fee.
- 8-112. Distance requirements.
- 8-113. Violations.

8-101. Alcoholic beverages subject to regulation. It shall be unlawful to engage in the business of selling, storing, transporting, distributing, or to purchase or possess alcoholic beverages, as that term is defined in Tennessee Code Annotated, title 57, chapter 3, within the corporate limits of this city except as provided by Tennessee Code Annotated, title 57, chapter 3 and this chapter. (1976 Code, § 2-101, as replaced by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

¹State law reference

Tennessee Code Annotated, title 57.

8-102. Application for certificate.¹ Before any certificate of compliance, as required by Tennessee Code Annotated, § 57-3-208 or a renewal as required by § 57-3-213 shall be signed by the mayor, or by any aldermen,² an application in writing shall be filed with the city recorder. If an application for a certificate of compliance is to be submitted for a business entity other than a sole proprietorship, the application shall be accompanied by an application completed by each owner of the retail package store business, including each and every partner, shareholder, member or any other person or entity, however described, who has any ownership interest in the retail package store business on a form to be provided by the city, giving the following information:

(1) Name, date of birth, address, social security number and telephone number of the applicant.

(2) The name of the business entity that owns or will own the retail package store business and the names, dates of birth, addresses and telephone numbers of each person who has or will have an ownership interest in the business.

(3) Whether or not the applicant or applicants has been convicted of a felony or "any" violation of state or local liquor laws within a ten-year period immediately preceding the date of application.

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

(5) The name, address and telephone number of the owner(s) of the real estate to be used for the proposed location of the retail package store.

(6) The ownership interest of each applicant in the retail package store business.

(7) A true, complete and accurate Tennessee Bureau of Investigation criminal history report on each applicant.

The information in the application shall be verified by the oath of the applicant. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-103. Applicant to agree to comply with laws. The applicant for a certificate of compliance shall agree in writing to comply with the state and federal laws and ordinances of the City of Henderson and rules and regulations of the Alcoholic Beverage Commission of the State for sale of alcoholic beverages. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

¹State law reference

Tennessee Code Annotated, § 57-3-208.

²State law reference

Tennessee Code Annotated, § 57-3-208 requires the certificate to be signed by the mayor or a majority of the governing body.

8-104. Applicant to appear before board of mayor and aldermen.

After submitting an application for a certificate of compliance an applicant may appear in person before the board of mayor and aldermen and provide additional information that the applicant elects to provide. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-105. Action on the application. Every application for a certificate of compliance shall be referred to the chief of police for investigation and to the city attorney for review, each of whom shall submit his findings to the board of mayor and aldermen within twenty (20) days of the date each application was filed.

Provided that the applicant(s) has submitted an application that fully complies with § 8-102 above, the board of mayor and aldermen may issue a certificate of compliance to any applicant, which shall be signed by the mayor or by a majority of the board of aldermen. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-106. Applicants for certificate who have criminal record. No certificate of compliance shall be issued to any person, (or if the applicant is a partnership, any partner, or if the applicant is a corporation, any stockholder), who, within ten (10) years preceding the application for such certificate of compliance, has been convicted of any felony or of any offense under the laws of the state or of the United States prohibiting the sale, possession, transportation, storage or otherwise handling of intoxicating liquors, has suffered the suspension or revocation of any license or certificate providing for the sale of intoxicating liquors and or beverages in any civil proceeding for violations of the laws of the State of Tennessee and/or the City of Henderson, Tennessee or who has during such period been engaged in business, alone or with others, in violation of such laws. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-107. Where establishments may be located. It shall be unlawful for any person to operate or maintain any retail establishment for the sale, storage or distribution of alcoholic beverages in the city except at locations zoned for that purpose. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-108. Retail stores to be on ground floor; entrances. No retail store shall be located anywhere in the city except on the ground floor thereof. Each such store shall have only one (1) main entrance; provided, that when a store is located on the corner of two (2) streets, such store may maintain a door opening on each such street.

In addition, all retail package liquor stores shall be a permanent type of construction. No retail package liquor stores shall be located in a manufactured or other moveable or prefabricated type building. All liquor stores shall have night lights surrounding the premises and shall be equipped with a functioning

burglar alarm system on the inside of the premises. The minimum square footage of the interior of the liquor store shall be one thousand (1,000) square feet. Full, free and unobstructed vision of the interior of the store shall be afforded to and from the street or public highway by the way of large windows in the front. Said windows shall cover a minimum of seventy percent (70%) of the total square footage of the ground floor building front between three and eight foot (3' and 8') in height. Said required windows shall not be covered by any signage, merchandise, shelving, security bars or shutters during the hours of operation. Security shutters may be used when the package store is closed. Where due to distance or the nature of the real property upon which any such store is situated, such view from a street or highway is not feasible, unobstructed vision shall nevertheless be provided to and from the parking lot of such store. Regardless, no fence, landscaping or other impediments are allowed other than vehicles temporarily parked on the premises on which the package liquor store is located, that obstruct the full and free vision of the interior of any such store.

All liquor stores shall be subject to applicable zoning, land use, building and life safety regulations, adopted by the city, unless specifically provided otherwise. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-109. No consumption on premises. No alcoholic beverages shall be sold for consumption, or shall be consumed, on the premises of the retail seller. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-110. Amusement devices and seating facilities prohibited in retail establishments. No television sets (for public viewing), pinball machines, slot machines or other devices which tend to cause persons to congregate in such place shall be permitted in any retail package liquor store. No seating facilities shall be provided for persons other than employees. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-111. Inspection fee. The City of Henderson hereby imposes an inspection fee in the maximum amount allowed by Tennessee Code Annotated, § 57-3-501 on all licensed retailers of alcoholic beverages located within the corporate limits of the city. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

8-112. Distance requirements. No retail package liquor store shall be allowed within one thousand (1,000) feet of any school, church, day care center or public park in existence on the date of the applicant's application for a certificate of compliance. The distance described herein shall be measured in a straight line from building to building, or in the case of a public park, from the closest point in the nearest property line of the public park.

If a potential applicant selects a site that is legal under these regulations but due to substantial remodel of an existing building or the construction of a

new building there will be a significant amount of time prior to the applicant being eligible to file an application for a certificate of compliance, said potential applicant can complete a "letter of intent" on a form provided by the city. The purpose of the letter of intent is to gain prior approval for the proposed site as to the distance requirements and the proper zoning. If the letter of intent is approved by the building official and the mayor as to the distance and zoning requirements, this approval will remain effective for a period of six (6) months from the date of filing. Approval of the letter of intent is only as to distance and zoning requirements and in no way approves that the structure or building meets any other regulations of this chapter or the building code. An approved letter of intent is non-transferrable. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*, and replaced by Ord. #498, Jan 2017 *Ch3_08-12-21*)

8-113. Violations. 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. Each day that any person fails to fully comply with the provisions of this chapter shall constitute a separate offense and violation. 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. However, nothing herein shall be construed to prevent the city from exercising any criminal or civil remedies that it may have with respect to violations of this chapter. (as added by Ord. #497, Jan. 2017 *Ch3_08-12-21*)

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Annual privilege tax.
- 8-209. Beer permits shall be restrictive; on premises consumption not allowed; surrendering permits.
- 8-210. Distance requirements.
- 8-211. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer.
- 8-213. Revocation or suspension of beer permits.
- 8-214. Civil penalty in lieu of revocation or suspension.
- 8-215. Loss of clerk's certification for sale to minor.

8-201. Beer board established. There is hereby established a beer board to be composed of all the members of the board of mayor and aldermen. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without additional compensation. (1976 Code, § 2-201)

8-202. Meetings of the beer board. All meetings of the beer board shall be opened to the public. The board shall hold regular meetings at a location set by the board on the second Thursday night of each month 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 or any two members, provided reasonable notice thereof is given to each member at least three (3) days in advance of such meeting. The board may adjourn a meeting at any time to another time and place. (1976 Code, § 2-202, as amended by Ord. #286, March 1995, modified)

¹State law reference

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

8-203. Record of beer board proceedings to be kept. The recorder shall keep a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, etc., before the board; a copy of each such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (1976 Code, § 2-203)

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. (1976 Code, § 2-204)

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. (1976 Code, § 2-205)

8-206. "Beer" defined. For purposes of this chapter, "beer" shall mean beer, ale or other malt beverages, or any other beverages having an alcoholic content of not more than eight percent (8%) by weight, except wine as defined in Tennessee Code Annotated, § 57-3-101; provided, however, that no more than forty-nine percent (49%) of the overall alcoholic content of such beverage may be derived from the addition of flavors and other non-beverage ingredients containing alcohol. (1976 Code, § 2-206, as replaced by Ord. #500, Jan. 2017 *Ch3_08-12-21*)

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 from the beer board a permit. No application will be accepted for a location if the local zoning ordinance does not allow a business or this type of business at the proposed location. Applicants for new permits will be required to pay a non-refundable application fee of two hundred and fifty dollars (\$250.00) when filing the application with the city recorder. The application shall remain on file with the city recorder at least thirty (30) days prior to being placed on the agenda of the beer board. During this period notice of the application shall be published for two (2) consecutive weeks in the "Chester County Independent" newspaper at the expense of the applicant. Both the application and the notice shall be on forms prescribed and furnished by the board. 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. (1976 Code, § 2-207, as amended by Ord. #267, July 1993, and Ord. #286, March 1995)

8-208. Annual privilege tax. An annual privilege tax is required for all permit holders. The due date of the privilege tax is January 1 of each year. The city is required to mail written notice at least 30 days prior to the due date of the tax, notifying them of the due date and that it is to be remitted to the city recorder. If the permit holder does not pay the tax by January 31, then the recorder shall send a notice of delinquency by certified mail. Once the delinquent notice is received, the permit holder has ten (10) days to remit the tax. If not remitted during this period, the permit automatically becomes void. Permit holders who get beer permits after January 1 of each year are required to pay a prorated amount of the tax for each month or portion thereof they have a permit until the next due date. Any permit holder who has paid the privilege tax and goes out of business at anytime after payment of the tax, will not be eligible for a refund of any portion of the tax. (Ord. #267, July 1993)

8-209. Beer permits shall be restrictive; on premises consumption not allowed; surrendering permits. 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. It shall be unlawful for any beer permit holder to engage in any type or phrase of the beer business not expressly authorized by his/her/their permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions which may be written into his/her/their permit by the beer board.

There shall be no sales of beer for on premises consumption within the city limits. Any existing business which holds a permit for the on premises sale and consumption of beer under a prior ordinance will be allowed to operate lawfully under this section provided, however, that if the holders of the on premises permit(s) violate any provision of the beer law, such permits may be revoked by the beer board.

Beer permit holders must surrender the permit within fifteen (15) days of the termination of business, change of ownership, relocation, or change in the business name. (1976 Code, § 2-208, as amended by Ord. #267, July 1993, and Ord. #286, March 1995)

8-210. Distance requirements. No permit authorizing the retail sale of packaged beer shall be issued if the proposed or existing business is within one thousand feet (1,000') of any school, church, day care center or public park in existence on the date of the applicant's application for the permit. The distance described herein shall be measured in a straight line from building to building, or in the case of a public park, from the closet point in the nearest property line of the public park. (1976 Code, § 2-210, as amended by Ord. #286, March 1995, and replaced by Ord. #500, Jan. 2017 *Ch3_08-12-21*)

8-211. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years. (1976 Code, § 2-211)

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

(1) Employ any 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 less than eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.

(3) Make or allow the sale of beer except during the following times: Monday-Saturday from 6:00 A.M. until 12:00 midnight. No beer sales shall be allowed on Sunday.

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

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

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

(7) Allow drunk or disreputable persons to loiter about the premises.

(8) To sell any alcoholic beverage with an alcoholic content higher than beer as defined in § 8-206.

(9) Serve or allow the consumption on his/her premises of any alcoholic beverage.

(10) Fail to provide and maintain a public sanitary toilet facility. (1976 Code, § 2-212, as amended by Ord. #286, March 1995, as replaced by Ord. #516, July 2018 *Ch3_08-12-21*)

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

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

meetings since the clerk's original certification, unless the vendor's status as a certified responsible vendor has been revoked by the alcoholic beverage commission. If the responsible vendor's certification has been revoked, the vendor shall be punished by the beer board as if the vendor were not certified as a responsible vendor. "Clerk" means any person working in a capacity to sell beer directly to consumers for off-premises consumption. Under Tennessee Code Annotated, § 57-5-608, the alcoholic beverage commission shall revoke a vendor's status as a responsible vendor upon notification by the beer board that the board has made a final determination that the vendor has sold beer to a minor for the second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (1976 Code, § 2-213, as amended by Ord. #267, July 1993, and Ord. #286, March 1995, and replaced by Ord. #516, July 2018 *Ch3_08-12-21*)

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

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

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

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

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

Payment of the civil penalty in lieu of revocation or suspension by a permit holder shall be an admission by the holder of the violation so charged and shall be paid to the exclusion of any other penalty that the city may impose. (as added by Ord. #373, Dec. 2002, and replaced by Ord. #516, July 2018 *Ch3_08-12-21*)

8-215. 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. (as added by Ord. #516, July 2018 ***Ch3_08-12-21***)

CHAPTER 3

BROWN-BAGGING

SECTION

- 8-301. Brown-bagging prohibited.
- 8-302. Definitions.
- 8-303. Violation.

8-301. Brown-bagging prohibited. No owner, operator or employee of any restaurant, club, or any other business of every kind and description, shall permit or allow any person to open, or to have open, or to consume inside or on the premises a bottle, can, flask or container of any kind or description, of alcoholic beverages or beer. (Ord. #310, Aug. 1997)

8-302. Definitions. For the purposes of interpreting this ordinance, the term "alcoholic beverages" shall mean and include alcohol, spirits, liquor, wine and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patent medicine, or beer where the latter contains an alcoholic content of five percent (5%) by weight or less. The term shall also include any liquid product containing distilled alcohol capable of being consumed by a human being, manufactured or made with distilled alcohol irrespective of alcoholic content, including, but not limited to, "home brew" and "moonshine."

For the same purposes, the term "beer" shall mean all beers, ales and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #310, Aug. 1997)

8-303. Violation. Any person violating this ordinance shall be punished by a fine not to exceed \$50.00. Each day any violation of this ordinance occurs shall be considered a separate offense. (Ord. #310, Aug. 1997)

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
2. PEDDLERS, ETC.
3. CHARITABLE SOLICITORS.
4. CABLE TELEVISION.
5. SEXUALLY ORIENTED BUSINESSES.

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

- 9-101. "Going out of business" sales.
9-102. Motor vehicle wash racks.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days he shall prima facie be deemed to have violated this section. (1976 Code, § 5-102)

9-102. Motor vehicle wash racks. It shall be unlawful for any business owner or employee to discharge into any street, gutter, storm sewer, waterway, or alley within the corporate limits of Henderson, Tennessee, any water used by such business in the washing of vehicles or for any other purposes or to discharge into such streets, gutters, storm sewers, waterway, or alleys any refuse caused by the use of water.

Any business using water in such a manner and in such quantities as to cause water or refuse to flow or be discharged into the streets, gutters, or alleys

¹Municipal code references

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

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

of the city, in the absence of appliances to prevent such discharge of water or refuse, is hereby required to connect with the sanitary sewer of the city in such manner that all such water shall flow into said sewer and not into the streets, gutters, or alleys of the city and to construct a catch basin upon the premises in such manner, and to maintain such catch basin in such manner, that mud, debris, and refuse caused from the use of water will not enter into such sewer line.

All catch basins required hereby shall be installed or constructed in accordance with the requirements approved by the superintendent of the water and sewer department, and all sewer taps made under the requirements of this section shall be made in a manner approved by the superintendent of the water and sewer department. (1976 Code, § 5-103, modified)

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
- 9-202. Exemptions.
- 9-203. Application for permit.
- 9-204. Issuance or refusal of permit.
- 9-205. Appeal.
- 9-206. Bond.
- 9-207. Loud noises and speaking devices.
- 9-208. Use of streets.
- 9-209. Exhibition of permit.
- 9-210. Policemen to enforce.
- 9-211. Revocation or suspension of permit.
- 9-212. Reapplication.
- 9-213. Expiration and renewal of permit.

9-201. Permit required. It shall be unlawful for any peddler, canvasser, or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1976 Code, § 5-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic or philanthropic organizations. (1976 Code, § 5-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant.
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made.
- (3) A brief description of the nature of the business and the goods to be sold.

¹Municipal code reference
Privilege taxes: title 5.

(4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship.

(5) The length of time for which the right to do business is desired.

(6) A recent clear photograph approximately two (2) inches square showing the head and shoulders of the applicant.

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

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

(9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities.

(10) At the time of filing the application, a fee of five dollars (\$5.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (1976 Code, § 5-203)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1976 Code, § 5-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the board of mayor and aldermen. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least five (5) days prior to the date set for hearing, or shall be

delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1976 Code, § 5-205)

9-206. Bond. Every permittee shall file with the city recorder a surety bond running to the city in the amount of one thousand dollars (\$1,000.00). The bond shall be conditioned that the permittee shall comply fully with all the provisions of the ordinances of the city and the statutes of the state regulating peddlers, canvassers, solicitors, transient merchants, itinerant merchants, or itinerant vendors, as the case may be, and shall guarantee to any citizen of the city that all money paid as a down payment will be accounted for and applied according to the representations of the permittee, and further guaranteeing to any citizen of the city doing business with said permittee that the property purchased will be delivered according to the representations of the permittee. Action on such bond may be brought by any person aggrieved and for whose benefit, among others, the bond is given, but the surety may, by paying, pursuant to order of the court, the face amount of the bond to the clerk of the court in which the suit is commenced, be relieved without costs of all further liability. (1976 Code, § 5-206)

9-207. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such permittee proposes to sell. (1976 Code, § 5-207)

9-208. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced. (1976 Code, § 5-208)

9-209. Exhibition of permit. Permittees are required to exhibit their permits at the request of any policeman or citizen. (1976 Code, § 5-209)

9-210. Policemen to enforce. It shall be the duty of all policemen to see that the provisions of this chapter are enforced. (1976 Code, § 5-210)

9-211. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the board of mayor and aldermen after notice and hearing, for any of the following causes:

(a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant or itinerant vendor.

(b) Any violation of this chapter.

(c) Conviction of any crime or misdemeanor.

(d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant merchant, or itinerant vendor, as the case may be, in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.

(3) When reasonably necessary in the public interest the mayor may suspend a permit pending the revocation hearing. (1976 Code, § 5-211)

9-212. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1976 Code, § 5-212)

9-213. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1976 Code, § 5-213)

CHAPTER 3

CHARITABLE SOLICITORS

SECTION

- 9-301. Permit required.
- 9-302. Prerequisites for a permit.
- 9-303. Denial of a permit.
- 9-304. Exhibition of permit.

9-301. Permit required. No person shall solicit contributions or anything else of value for any real or alleged charitable or religious purpose without a permit from the city recorder authorizing such solicitation. Provided, however, that this section shall not apply to any locally established organization or church operated exclusively for charitable or religious purposes if the solicitations are conducted exclusively among the members thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies of any such established organization or church. (1976 Code, § 5-301)

9-302. Prerequisites for a permit. The recorder shall upon application, issue a permit authorizing charitable or religious solicitations when, after a reasonable investigation, he finds the following facts to exist:

(1) The applicant has a good character and reputation for honesty and integrity, or if the applicant is not an individual person, that every member, managing officer or agent of the applicant has a good character or reputation for honesty and integrity.

(2) The control and supervision of the solicitation will be under responsible and reliable persons.

(3) The applicant has not engaged in any fraudulent transaction or enterprise.

(4) The solicitation will not be a fraud on the public but will be for a bona fide charitable or religious purpose.

(5) The solicitation is prompted solely by a desire to finance the charitable cause described by the applicant. (1976 Code, § 5-302)

9-303. Denial of a permit. Any applicant for a permit to make charitable or religious solicitations may appeal to the board of mayor and aldermen if he has not been granted a permit within fifteen (15) days after he makes application therefor. (1976 Code, § 5-303)

9-304. Exhibition of permit. Any solicitor required by this chapter to have a permit shall exhibit such permit at the request of any policeman or person solicited. (1976 Code, § 5-304)

CHAPTER 4

CABLE TELEVISION

SECTION

9-401. To be furnished under franchise.

9-401. To be furnished under franchise. Cable television service shall be furnished to the City of Henderson and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the City of Henderson and its inhabitants and the grantee of the franchise shall be clearly stated in the franchise agreement which shall be binding upon the parties concerned.¹

¹For complete details relating to the cable television franchise agreement see Ord. #65 dated February, 1968, and any amendments, in the office of the city recorder.

CHAPTER 5

SEXUALLY ORIENTED BUSINESSES

SECTION

- 9-501. Purpose and findings.
- 9-502. Definitions.
- 9-503. Classification.
- 9-504. License required.
- 9-505. Issuance of license.
- 9-506. Fees.
- 9-507. Inspection.
- 9-508. Expiration of license.
- 9-509. Suspension.
- 9-510. Revocation.
- 9-511. Transfer of license.
- 9-512. Location of sexually oriented businesses.
- 9-513. Exterior portions of oriented businesses.
- 9-514. Signage.
- 9-515. Massages or baths administered by person of opposite sex.
- 9-516. Additional regulations for adult motels.
- 9-517. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms.
- 9-518. Additional regulations for escort agencies.
- 9-519. Additional regulations for nude model studios.
- 9-520. Additional regulations concerning public nudity.
- 9-521. Prohibition against children in a sexually oriented business.
- 9-522. Hours of operation.
- 9-523. Exemptions.
- 9-524. Injunction.

9-501. Purpose and findings. (1) Purpose. It is the purpose of this chapter to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(2) Findings. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the board of aldermen, and on findings incorporated in the cases of City of Renton V. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), and Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; and Beaumont, Texas; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the board of aldermen finds:

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

(b) Certain employees of sexually oriented businesses defined in this chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(c) Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows.

(d) Offering and providing such space encourages such activities, which creates unhealthy conditions.

(e) Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

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

(g) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States--600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985 and 253,448 through December 31, 1992.

(h) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in West Tennessee.

(i) The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982 and 45,200 through November of 1990.

(j) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

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

(l) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(m) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(n) Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" orient films.

(o) The findings noted paragraphs number (a) through (n) raise substantial government concerns.

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

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

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

(s) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by

facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

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

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

(v) The fact that an applicant for an adult use license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contradiction of this chapter.

(w) The barring of such individuals from the management of adult uses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.

(x) The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this chapter. (Ord. #335, Dec. 1999)

9-502. Definitions. (1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

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

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" or

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

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical area" and still

be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

- (a) Persons who appear in a state of nudity or semi-nude; or
- (b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or
- (c) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

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

- (a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- (b) Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- (c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

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

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

(7) "Employee" means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the

premises or equipment on the premises, or for the delivery of goods to the premises.

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

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

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

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

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

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

(d) The relocation of any sexually oriented business.

(11) "License" means a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

(12) "Nude model studio" means any place where a person who appears semi-nude, in a state of nudity, or who displays "specified anatomical area" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a proprietary school licensed by the State of Tennessee or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(a) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(b) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

(c) Where no more than one nude or semi-nude model is on the premises at any one time.

(13) "Nudity" or "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

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

(15) "Semi-nude" or in a "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

(16) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(b) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

(17) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

(18) "Specified anatomical areas" means:

(a) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(b) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

(19) "Specified criminal activity" means any of the following offenses:

(a) Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code of other states or countries;

(b) For which:

(i) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

(ii) Less than five years have elapsed since the date of conviction or the date of release from confinement for the

conviction, whichever is the later date, if the conviction is of a felony offense; or

(iii) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.

(c) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

(20) "Specified sexual activities" means any of the following:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(b) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy; or

(c) Excretory functions as part of or in connection with any of the activities set forth in (a) through (b) above.

(21) "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on the date this chapter takes effect.

(22) "Transfer or ownership or control" of a sexually oriented business means and includes any of the following:

(a) The sale, lease, or sublease of the business;

(b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(c) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Ord. #335, Dec. 1999)

9-503. Classification. Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores, adult novelty stores, or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers. (Ord. #335, Dec. 1999)

9-504. License required. (1) It is unlawful:

(a) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the city pursuant to this chapter.

(b) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the city pursuant to this chapter.

(c) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.

(2) An application for a license must be made on a form provided by the city.

(3) All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the city to determine whether the applicant meets the qualifications established in this chapter.

(4) If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if a license is granted.

(5) The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:

(a) If the applicant is:

(i) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is 18 years of age;

(ii) A partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(iii) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(b) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant; he or she must state:

(i) The sexually oriented business's fictitious name and

- (ii) Submit the required registration documents.
- (c) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
- (d) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinances from another city or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- (e) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance from another city or county and, if so, the names and locations of such other licensed businesses.
- (f) The single classification of license for which the applicant is filing.
- (g) The location of the proposed sexually oriented business, including a legal description of the property, street address, and the telephone number(s), if any.
- (h) The applicant's mailing address and residential address.
- (i) A recent photograph of the applicant.
- (j) The applicant's driver's license number, social security number, and/or his/her state or federally issued tax identification number.
- (k) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (l) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the distances to all property lines, structures and uses in which the distance is regulated under § 9-512. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

(m) If an applicant wishes to operate a sexually oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, video cassettes, other video reproductions, or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements set forth in § 9-517.

(6) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the city the following information:

- (a) The applicant's name or any other name (including "stage" names) or aliases used by the individual.
- (b) Age, date, and place of birth;
- (c) Height, weight, hair and eye color;
- (d) Present residence address and telephone number;
- (e) Present business address and telephone number;
- (f) Date, issuing state and number of driver's permit or other identification card information;
- (g) Social security number; and
- (h) Proof that the individual is at least eighteen (18) years of age.

(7) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:

(a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the police department. Any fees for the photographs and fingerprints shall be paid by the applicant.

(b) A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order or denial, revocation, or suspension shall be attached to the application.

(c) A statement whether the applicant has been convicted of a specified criminal activity as defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each. (Ord. #335, Dec. 1999)

9-505. Issuance of license. (1) Sexually oriented employee license.

(a) Upon the filing of said application for a sexually oriented business employee license, the city shall issue a temporary license to said applicant. The application shall then be referred to the appropriate city departments for an investigation to be made on such information as is contained on the application. The application process shall be completed within thirty (30) days from the date the completed application is filed. After the investigation, the city shall issue a license, unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(i) The applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form;

(ii) The applicant is under the age of eighteen (18) years;

(iii) The applicant has been convicted of a "specified criminal activity" as defined in this chapter;

(iv) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by a particular provision of this chapter; or

(v) The applicant has had a sexually oriented business employee license revoked by the city within two (2) years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension, or revocation of a license issued pursuant to this subsection shall be subject to appeal as set forth in § 9-510.

(b) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 9-506.

(2) Sexually oriented business license. (a) Within 30 days after receipt of a completed sexually oriented business application, the city shall approve or deny the issuance of a license to an applicant. The city shall approve the issuance of a license to an applicant unless it is determined by a preponderance of the evidence that one or more of the following findings is true:

(i) An applicant is under eighteen (18) years of age.

(ii) An applicant or a person with whom applicant is residing is overdue in payment to the city of taxes, fees, fines, or

penalties assessed against or imposed upon him/her in relation to any business.

(iii) An applicant has failed to provide information reasonable necessary for issuance of the license or has falsely answered a question or request for information on the application form.

(iv) An applicant or a person with whom the applicant is residing has been denied a license by the city to operate a sexually oriented business within the preceding twelve (12) months or whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.

(v) An applicant or a person with whom the applicant is residing has been convicted of a specified criminal activity defined in this chapter.

(vi) The premises to be used for the sexually oriented business have not been approved by the health department, fire department, and the building official as being in compliance with applicable laws and ordinances.

(vii) The license fee required by this chapter has not been paid.

(viii) An applicant of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.

(b) The license, if granted shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the classification for which the license is issued pursuant to § 9-503. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read at any time.

(c) The health department, fire department, and the building official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the city.

(d) A sexually oriented business license shall issue for only one classification as found in § 9-503.

(e) A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 9-506. (Ord. #335, Dec. 1999)

9-506. Fees. (1) Every application for a sexually oriented business license shall be accompanied by a \$250.00 non-refundable application and investigation fee.

(2) In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the city an annual non-refundable license fee of \$100.00 within thirty (30) days of license issuance or renewal.

(3) Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual \$25.00 non-refundable application, investigation, and license fee.

(4) All license applications and fees shall be submitted to the city recorder of the city. (Ord. #335, Dec. 1999, as amend by Ord. #336, Jan. 2000)

9-507. Inspection. (1) An applicant or license shall permit representatives of the police department, health department, fire department, zoning department, or other city departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(2) A person who operates a sexually oriented business or his agent or employee commits a misdemeanor if he refuses to permit such lawful inspection of the premises at any time it is open for business. (Ord. #335, Dec. 1999)

9-508. Expiration of license. (1) Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 9-504. Application for renewal shall be made at least thirty (30) days before the expiration date.

(2) When the city denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If subsequent to denial, the city finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date denial become final. (Ord. #335, Dec. 1999)

9-509. Suspension. (1) The city shall suspend a license for a period not to exceed thirty (30) days if it determines that a licensee or an employee of a licensee has:

(a) Violated or is not in compliance with any section of this chapter.

(b) Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter. (Ord. #335, Dec. 1999)

9-510. Revocation. (1) The city shall revoke a license if a cause of suspension in § 9-509 occurs and the license has been suspended within the preceding twelve (12) months.

(2) The city shall revoke a license if it determines that:

(a) A licensee gave false or misleading information in the material submitted during the application process.

(b) A licensee has knowingly allowed possession, use, or sale of controlled substances on the premises.

(c) A licensee has knowingly allowed a prostitution on the premises.

(d) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended.

(e) Except in the case of an adult motel, a licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sex act to occur in or on the licensed premises; or

(f) A licensee is delinquent in payment to the city, county, or state for any taxes or fees past due.

(3) When the city revokes a license, the revocation shall continue for one (1) year, and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.

(4) After denial of an application, or denial of a renewal of an application, or suspension or revocation of any license, the applicant or licensee may seek prompt judicial review of such administrative action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court. (Ord. #335, Dec. 1999)

9-511. Transfer of license. A licensee shall not transfer his/her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application. (Ord. #335, Dec. 1999)

9-512. Location of sexually oriented businesses. (1) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business in any zoning district other than B-4 Highway Business, as defined and described in the Henderson Zoning Ordinance.

(2) It shall be unlawful for any person to operate or cause to be operated a sexually oriented business within distances of certain establishments as follows:

(a) Within 1,000 ft of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(b) Within 1,000 ft of a public or private educational facility including but not limited to child day care facilities, nursery schools,

preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(c) Within 250 ft of a boundary of a residential district as defined in the Henderson Zoning Ordinance;

(d) Within 1,000 ft of a public park or recreational area which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar public land with in the city which is under the control, operation, or management of the city, county or park and recreation authorities;

(e) Within 500 ft of a residential structure in any zoning district.

(f) Within 500 ft of an entertainment business which is oriented primarily towards children or family entertainment; or

(g) Within 250 ft of any business or private club licensed by the city or state to sell packaged beer or alcohol for on premises consumption.

(3) It shall be unlawful if a person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control or a sexually oriented business within 1,000 feet of another sexually oriented business.

(4) It shall be unlawful if a person causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(5) For the purpose of (2) of this section, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in (2). Presence of a city, county or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this section.

(6) For purposes of (3) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to the intervening structures or objects or political boundaries, from the closest exterior wall of the structure in which each business is located.

(7) Any sexually oriented business lawfully operating on the effective date of this chapter, that is in violation of (1) through (6) of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to

continue, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use.

(8) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in (2) of this section within 1000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked. (Ord. #335, Dec. 1999)

9-513. Exterior portions of oriented businesses. (1) It shall be unlawful for an owner or operator of a sexually oriented business to allow merchandise or activities of the establishment to be visible from a point outside the establishment.

(2) It shall be unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.

(3) It shall be unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:

(a) The establishment is a part of a commercial multi-unit center; and

(b) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center.

(4) Nothing in this article shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

(5) A violation of any provision of this section shall constitute a misdemeanor. (Ord. #335, Dec. 1999)

9-514. Signage. (1) Notwithstanding any other city ordinance, code, or regulation to the contrary, it shall be unlawful for the operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one (1) primary sign and one (1) secondary sign, as provided herein.

(2) Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:

- (a) Not contain any flashing lights;
 - (b) Be a flat plane, rectangular in shape;
 - (c) Not exceed seventy-five (75) square feet in area; and
 - (d) Not exceed ten (10) feet in height or ten (10) feet in length.
- (3) Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
- (4) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
- (5) Secondary signs shall have only one (1) display surface. Such display surface shall:
- (a) Be a flat plane, rectangular in shape;
 - (b) Not exceed twenty (20) square feet in area;
 - (c) Not exceed five (5) feet in height and four (4) feet in width;
- and
- (d) Be affixed or attached to any wall or door of the enterprise.
- (6) The provisions of item (a) of (2) and (3) and (4) shall also apply to secondary signs.
- (7) Violation of any provision of this section shall constitute a misdemeanor. (Ord. #335, Dec. 1999)

9-515. Massages or baths administered by person of opposite sex.

It shall be unlawful for any sexually oriented business, regardless of whether in a public or private facility, to operate as a massage salon, massage parlor or any similar type business where any physical contact with the recipient of such services is provided by a person of the opposite sex. Violation of this section shall constitute a misdemeanor. (Ord. #335, Dec. 1999)

9-516. Additional regulations for adult motels. (1) Evidence that a sleeping room in a hotel, motel, or a similar commercial establishments has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

(2) A person commits a misdemeanor if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually oriented license, he rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

(3) For purposes of (2) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration. (Ord. #335, Dec. 1999)

9-517. Regulations pertaining to exhibition of sexually explicit films, videos or live entertainment in viewing rooms. (1) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, live entertainment, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6") inches. The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

(b) The application shall be sworn to be true and correct by the applicant.

(c) No alteration in the configuration or location of a manager's station may be made without the prior approval of the city.

(d) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.

(e) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(f) It shall be the duty of the licensee to ensure that the view area specified in (e) remains unobstructed by any doors, curtains,

partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to (a) of this section.

(g) No viewing room may be occupied by more than one person at any time.

(h) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) footcandles as measured at the floor level.

(i) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(j) No licensee shall allow openings of any kind to exist between viewing rooms or booths.

(k) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.

(l) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.

(m) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(n) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within forty eight (48") inches of the floor.

(2) A person having a duty under (a) through (n) of (1) above commits a misdemeanor if he knowingly fails to fulfill that duty. (Ord. #335, Dec. 1999)

9-518. Additional regulations for escort agencies. (1) An escort agency shall not employ any person under the age of 18 years.

(2) A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years. (Ord. #335, Dec. 1999)

9-519. Additional regulations for nude model studios. (1) A nude model studio shall not employ any person under the age of 18 years.

(2) A person under the age of 18 years commits an offense if the person appears semi-nude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a restroom not open to public view or visible to any other person.

(3) A person commits an offense if the person appears in a state of nudity, or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

(4) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public. (Ord. #335, Dec. 1999)

9-520. Additional regulations concerning public nudity. (1) It shall be a misdemeanor for a person who knowingly and intentionally, in a sexually oriented business, appears in a state of nudity or depicts specified sexual activities.

(2) It shall be a misdemeanor for a person who knowingly or intentionally in a sexually oriented business appears in a semi-nude condition unless the person is an employee who, while semi-nude, shall be at least ten (10) feet from any patron or customer and on a stage at least two feet from the floor.

(3) It shall be a misdemeanor for an employee, while semi-nude in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is semi-nude in a sexually oriented business.

(4) It shall be a misdemeanor for an employee, while semi-nude, to touch a customer or the clothing of a customer. (Ord. #335, Dec. 1999)

9-521. Prohibition against children in a sexually oriented business. A person commits a misdemeanor if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business. (Ord. #335, Dec. 1999)

9-522. Hours of operation. No sexually oriented business, except for an adult motel, may remain open at any time between the hours of one o'clock (1:00) A.M. and eight o'clock (8:00) A.M. on weekdays and Saturdays, and one o'clock (1:00) A.M. and noon (12:00) P.M. on Sundays. (Ord. #335, Dec. 1999)

9-523. Exemptions. (1) It is a defense to prosecution under § 9-520 that a person appearing in a state of nudity did so in a modeling class operated:

(a) By a proprietary school, licensed by the State of Tennessee; a college, junior college, or university supported entirely or partly by taxation;

(b) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(c) In a structure:

(i) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(ii) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(iii) Where no more than one nude model is on the premises at any one time. (Ord. #335, Dec. 1999)

9-524. Injunction. A person who operates or causes to be operated a sexually oriented business without a valid license or in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations. Such violations shall be punishable by a fine of \$500.00 or thirty (30) days imprisonment. Each day a sexually oriented business so operates is a separate offense or violation. (Ord. #335, Dec. 1999)

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

1. IN GENERAL.
2. DOGS.
3. HONEY BEES.

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

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Adequate food, water, and shelter, etc., to be provided.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Cruel treatment prohibited.
- 10-107. Seizure and disposition of animals.
- 10-108. Inspections of premises.

10-101. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, swine, sheep, horses, mules or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits. (1976 Code, § 3-101)

10-102. Keeping near a residence or business restricted. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand (1,000) feet of any residence, place of business, or public street, without a permit from the animal control officer. The animal control officer shall issue a permit only when in his sound judgment the keeping of such an animal in a yard or building under the circumstances as set forth in the application for the permit will not injuriously affect the public health. (1976 Code, § 3-102, modified)

10-103. Pen or enclosure to be kept clean. When animals or fowls are kept within the corporate limits, the building, structure, corral, pen or enclosure in which they are kept shall at all times be maintained in a clean and sanitary condition. (1976 Code, § 3-103)

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. (1976 Code, § 3-104)

10-105. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1976 Code, § 3-105)

10-106. Cruel treatment prohibited. It shall be unlawful for any person to unnecessarily beat or otherwise abuse or injure any dumb animal or fowl. (1976 Code, § 3-106)

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 the animal control officer or by any police officer and confined in a pound provided or designated by the board of mayor and aldermen. The impounded animal or fowl must be claimed within three (3) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed, or it may otherwise be disposed of as authorized by the board of mayor and aldermen.

The animal control officer 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. (1976 Code, § 3-107, modified)

10-108. Inspections of premises. For the purpose of making inspections to insure compliance with the provisions of this title, the animal control officer, or his authorized representative, shall be authorized to enter, at any reasonable time, any premises where he has reasonable cause to believe an animal or fowl is being kept in violation of this chapter. (1976 Code, § 3-108, modified)

CHAPTER 2

DOGS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs to be securely restrained.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Pit bull dogs.
- 10-209. Animal control officer.

10-201. Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (Tennessee Code Annotated, §§ 68-8-101 through 68-8-114) or other applicable law. (1976 Code, § 3-201)

10-202. Dogs to wear tags. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section. (1976 Code, § 3-202)

10-203. Running at large prohibited.¹ It shall be unlawful for any person knowingly to permit any dog owned by him or under his control to run at large within the corporate limits. (1976 Code, § 3-203)

10-204. Vicious dogs to be securely restrained. It shall be unlawful for any person to own or keep any dog known to be vicious or dangerous unless such dog is so confined and/or otherwise securely restrained as to provide reasonably for the protection of other animals and persons. (1976 Code, § 3-204)

10-205. Noisy dogs prohibited. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, annoys, or disturbs the peace and quiet of any neighborhood. (1976 Code, § 3-205)

10-206. Confinement of dogs suspected of being rabid. If any dog has bitten any person or is suspected of having bitten any person or is for any

¹State law reference

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

reason suspected of being infected with rabies, the animal control officer or any police officer may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid. (1976 Code, § 3-206, as amended by Ord. #299, Dec. 1996)

10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by the animal control officer or any police officer and placed in a pound provided or designated by the board of mayor and aldermen. If said dog is wearing a tag, the city will make a reasonable attempt to notify the owner in person or by telephone to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be humanely destroyed or sold. If said dog is not wearing a tag it shall be humanely destroyed or sold unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless the person receiving the dog has paid to the city and thus received a certificate for a rabies vaccination at a local veterinarian or sufficient documentation is presented including description of dog that said animal had been previously vaccinated and a tag to such effect is placed on it's collar.

When, because of its viciousness or apparent infection with rabies or other dangerous disease, a dog found running at large cannot be safely impounded it may be summarily destroyed by the animal control officer or any police officer.¹ (1976 Code, § 3-207, as amended by Ord. #299, Dec. 1996)

10-208. Pit bull dogs. It shall be unlawful for any person to keep, confine, or allow to run at large within the city limits any pit bull dog. (1976 Code, § 3-208)

10-209. Animal control officer. The City of Henderson Board of Mayor and Aldermen shall appoint a person to serve as animal control officer. The mayor and board of aldermen shall assign duties for said position as well as set detailed operating procedures of the dog pound. The animal control officer shall be authorized to issue citations for violation of city code or Tennessee Code Annotated sections pertaining to dogs, cats or other animals. (Ord. #299, Dec. 1996)

¹State law reference

For a Tennessee Supreme Court case upholding the summary destruction of dogs pursuant to appropriate legislation, see Darnell v. Shapard, 156 Tenn. 544, 3 S.W.2d 661 (1928).

CHAPTER 3**HONEY BEES****SECTION**

10-301. General.

10-301. General. Beekeeping activities shall be conducted in accordance and in compliance with state law of general application, to include regulations promulgated by the Tennessee Department of Agriculture, including the "Honey Bee Best Management Practices Policy" issued by the Tennessee Department of Agriculture (Apiary Section) as may be amended from time to time. Any person that is suspected to be in violation of said regulations shall be reported to the State of Tennessee Department of Agriculture Apiary Section. (as added by Ord. #506, Sept. 2017 *Ch3_08-12-21*)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. ALCOHOL.
2. OFFENSES AGAINST THE PERSON.
3. OFFENSES AGAINST THE PEACE AND QUIET.
4. INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL.
5. FIREARMS, WEAPONS AND MISSILES.
6. TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE WITH TRAFFIC.
7. MISCELLANEOUS.
8. SKATEBOARDING, ROLLERSKATING PROHIBITED IN CERTAIN DESIGNATED AREAS.

CHAPTER 1

ALCOHOL²

SECTION

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

11-101. Drinking beer, etc., on streets, etc. It shall be unlawful for any person to drink or consume, or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place unless the place has a permit and license for on premises consumption. (1976 Code, § 10-229)

¹Municipal code references

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

²Municipal code reference

- Sale of alcoholic beverages, including beer: title 8.

State law reference

- See Tennessee Code Annotated § 33-8-203 (Arrest for Public Intoxication, cities may not pass separate legislation).

11-102. Minors in beer places. No person under twenty-one (21) years of age shall loiter in or around, work in, or otherwise frequent any place where beer is sold at retail for consumption on the premises. (1976 Code, § 10-222, modified)

CHAPTER 2

OFFENSES AGAINST THE PERSON

SECTION

11-201. Assault and battery.

11-201. Assault and battery. It shall be unlawful for any person to commit an assault or an assault and battery. (1976 Code, § 10-201)

CHAPTER 3

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-301. Disturbing the peace.

11-302. Anti-noise regulations.

11-301. 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. (1976 Code, § 10-202)

11-302. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare is prohibited.

(1) Miscellaneous prohibited noises enumerated. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) Blowing horns. The sounding of any horn or signal device on any automobile, motorcycle, bus, truck, or other vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 9:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of persons in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 9:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet,

comfort, or repose of any persons in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building official granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(1) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or standing vehicles for advertising or other purposes.

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the recorder. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1976 Code, § 10-233, modified)

CHAPTER 4

INTERFERENCE WITH PUBLIC OPERATIONS AND PERSONNEL

SECTION

11-401. Escape from custody or confinement.

11-402. Impersonating a government officer or employee.

11-403. False emergency alarms.

11-404. Resisting or interfering with city personnel.

11-405. Coercing people not to work.

11-401. Escape from custody or confinement. It shall be unlawful for any person under arrest or otherwise in custody of or confined by the city to escape or attempt to escape, or for any other person to assist or encourage such person to escape or attempt to escape from such custody or confinement. (1976 Code, § 10-209)

11-402. Impersonating a government officer or employee. No person other than an official police officer of the city shall wear the uniform, apparel, or badge, or carry any identification card or other insignia of office like or similar to, or a colorable imitation of that adopted and worn or carried by the official police officers of the city. Furthermore, no person shall deceitfully impersonate or represent that he is any government officer or employee. (1976 Code, § 10-211)

11-403. False emergency alarms. It shall be unlawful for any person intentionally to make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or to aid or abet in the commission of such act. (1976 Code, § 10-217)

11-404. Resisting or interfering with city personnel. It shall be unlawful for any person knowingly to resist or in any way interfere with or attempt to interfere with any officer or employee of the city while such officer or employee is performing or attempting to perform his municipal duties. (1976 Code, § 10-210)

11-405. Coercing people not to work. It shall be unlawful for any person in association or agreement with any other person to assemble, congregate, or meet together in the vicinity of any premises where other persons are employed or reside for the purpose of inducing any such other person by threats, coercion, intimidation, or acts of violence to quit or refrain from entering a place of lawful employment. It is expressly not the purpose of this section to prohibit peaceful picketing. (1976 Code, § 10-230)

CHAPTER 5**FIREARMS, WEAPONS AND MISSILES****SECTION**

11-501. Air rifles, etc.

11-502. Throwing missiles.

11-503. Discharge of firearms.

11-501. Air rifles, etc. It shall be unlawful for any person in the city to discharge any air gun, air pistol, air rifle, "BB" gun, or sling shot capable of discharging a metal bullet or pellet, whether propelled by spring, compressed air, expanding gas, explosive, or other force-producing means or method. (1976 Code, § 10-213)

11-502. Throwing missiles. It shall be unlawful for any person maliciously to throw any stone, snowball, bottle, or any other missile upon or at any vehicle, building, tree, or other public or private property or upon or at any person. (1976 Code, § 10-214)

11-503. Discharge of firearms. It shall be unlawful for any unauthorized person to discharge a firearm within the corporate limits. (1976 Code, § 10-212, modified)

CHAPTER 6**TRESPASSING, MALICIOUS MISCHIEF AND INTERFERENCE
WITH TRAFFIC****SECTION**

- 11-601. Trespassing.
- 11-602. Trespassing on trains.
- 11-603. Malicious mischief.
- 11-604. Interference with traffic.

11-601. Trespassing. The owner or person in charge of any lot or parcel of land or any building or other structure within the corporate limits may post the same against trespassers. It shall be unlawful for any person to go upon any such posted lot or parcel of land or into any such posted building or other structure without the consent of the owner or person in charge.

It shall be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to leave promptly the private premises of any person who requests or directs him to leave. (1976 Code, § 10-226)

11-602. Trespassing on trains. It shall be unlawful for any person to climb, jump, step, stand upon, or cling to, or in any other way attach himself to any locomotive engine or railroad car unless he works for the railroad corporation and is acting the scope of his employment or unless he is a lawful passenger or is otherwise lawfully entitled to be on such vehicle. (1976 Code, § 10-221)

11-603. Malicious mischief. It shall be unlawful and deemed to be malicious mischief for any person willfully, maliciously, or wantonly to damage, deface, destroy, conceal, tamper with, remove, or withhold real or personal property which does not belong to him. (1976 Code, § 10-225)

11-604. Interference with traffic. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere unreasonably with the free passage of pedestrian or vehicular traffic thereon. (1976 Code, § 10-232)

CHAPTER 7

MISCELLANEOUS

SECTION

11-701. Abandoned refrigerators, etc.

11-702. Caves, wells, cisterns, etc.

11-703. Posting notices, etc.

11-704. Curfew for minors.

11-705. Wearing masks.

11-701. Abandoned refrigerators, etc. It shall be unlawful for any person to leave in any place accessible to children any abandoned, unattended, unused, or discarded refrigerator, icebox, or other container with any type latching or locking door without first removing therefrom the latch, lock, or door. (1976 Code, § 10-223)

11-702. Caves, wells, cisterns, etc. It shall be unlawful for any person to permit to be maintained on property owned or occupied by him any cave, well, cistern, or other such opening in the ground which is dangerous to life and limb without an adequate cover or safeguard. (1976 Code, § 10-231)

11-703. Posting notices, etc. No person shall fasten, in any way, any show-card, poster, or other advertising device or sign upon any public or private property unless legally authorized to do so. (1976 Code, § 10-227)

11-704. Curfew for minors. It shall be unlawful for any person, under the age of eighteen (18) years to be abroad at night between 12:00 Midnight and 5:00 A.M. unless going directly to or from a lawful activity or upon a legitimate errand for, or accompanied by, a parent, guardian, or other adult person having lawful custody of such minor. (1976 Code, § 10-224, as amended by Ord. #261, Oct. 1992)

11-705. Wearing masks. It shall be unlawful for any person to appear on or in any public way or place while wearing any mask, device, or hood whereby any portion of the face is so hidden or covered as to conceal the identity of the wearer. The following are exempted from the provisions of this section:

(1) Children under the age of ten (10) years.

(2) Workers while engaged in work wherein a face covering is necessary for health and/or safety reasons.

(3) Persons wearing gas masks in civil defense drills and exercises or emergencies.

(4) Any person having a special permit issued by the city recorder to wear a traditional holiday costume. (1976 Code, § 10-235)

CHAPTER 8

**SKATEBOARDING, ROLLER SKATING PROHIBITED IN
CERTAIN DESIGNATED AREAS**

SECTION

11-801. Skateboarding, rollerskating, roller blades and similar activities prohibited in certain designated areas.

11-802. Definitions.

11-803. Designation of private property as no skateboarding or rollerskating area.

11-804. Designation of public property as no skateboarding or rollerskating area.

11-805. Posting of signs required, content.

11-806. Penalties.

11-807. Exemption from the provisions of this chapter.

11-801. Skateboarding, rollerskating, roller blades and similar activities prohibited in certain designated areas. (1) It shall be unlawful and subject to punishment in accordance with § 11-807 of this chapter, for any person utilizing or riding upon any skateboard, rollerskates, roller blades or any similar device on wheels or runners to ride or move about in or on any public property that is designated as a no skateboard, rollerskating, roller blading or similar activity area by § 11-804 of this chapter; or any private property when the said property has been designated by the owner and/or tenant as required by this chapter and is posed as a no skateboard, rollerskating, roller blading or similar activity area.

(2) No person shall use a skateboard, roller blades, or roller skates or similar device outside of a designated no skateboarding, rollerskating, or similar activity area in a manner which creates a nuisance. For the purpose of this chapter "nuisance" is defined as any activity which:

(a) Threatens injury to persons or property;

(b) Creates an obstruction or presents a hazard to the free and unrestricted use of public or private property by pedestrians or motorists;
or

(c) Generates loud or unreasonable noise.

(3) It shall be unlawful for any person to operate a skateboard, roller skates, roller blades or any similar device in a negligent or careless manner upon any public property within the City of Henderson, Tennessee. For the purpose of this section (3), the term "to operate in a negligent or careless manner" means the operation of a skateboard, roller skates, roller blades in such a manner as to endanger or to likely to endanger any person or property or to obstruct, hinder or impede the lawful course of travel of any motor vehicle or the

lawful use of any pedestrian or public streets, sidewalks, alleys, parking lots, walkways and steps to or on public property. (as added by Ord. #423, July 2007)

11-802. Definitions. For the purpose of this chapter, the following words shall be defined as follows:

(1) "Private property" shall mean any property held by private interests which is used primarily for business, commercial, office space, business park, religious, multifamily or recreational purposes. This shall also include the parking facilities for these "private property" areas.

(2) "Public property" shall mean any property owned or maintained by the City of Henderson, County of Chester, State of Tennessee or any other government entity and shall include buildings, walkways, sidewalks, streets, roadways, alleys and public parking lots.

(3) "Rollerskates" or "roller blades" shall mean any footwear, or device which may be attached to the foot or footwear, to which wheels are attached, including wheels that are "in line" and where such wheels may be used to aid the wearer in moving or propulsion.

(4) "Skateboard" shall mean a board of any material, which has wheels attached to it and which, if propelled or moved by human, gravitational, or mechanical power, and to which there is not fixed any device or mechanism to turn or control the wheels. (as added by Ord. #423, July 2007)

11-803. Designation of private property as no skateboarding or rollerskating area. Any private property can be designated as a no skateboarding, rollerskating or similar activity area by the owner and/or tenant by:

(1) Posting appropriate sign age in accordance with § 11-805 of this chapter; and

(2) By making notification of such to the Henderson Police Department. (as added by Ord. #423, July 2007)

11-804. Designation of public property as no skateboarding or rollerskating area. The city board hereby designates all public property within Business (B-1, B-2, B-3 and B-4) zones and the Institutional zone as a no skateboarding, rollerskating or similar activity area. (as added by Ord. #423, July 2007)

11-805. Posting of signs required, content. Prior to the enforcement of the prohibition on skateboarding or rollerskating or similar activity on private property, the area so designated shall be posted with signs which state substantially the following:

"Skateboarding, rollerskating or similar activity, is prohibited on this property."

Signs shall be posted in plan view upon the property in one (1) or more locations. These signs will be a minimum of twelve inches by eighteen inches (12" x 18") with lettering not less than one inch (1") in height. It shall be the responsibility of the property owner or tenant(s) to post and maintain all signs prohibiting skateboarding. (as added by Ord. #423, July 2007)

11-806. Penalties. Any violation of this chapter is deemed an infraction, punishable by a fine up to fifty dollars (\$50.00) plus court cost for each offense. (as added by Ord. #423, July 2007)

11-807. Exemption from the provisions of this chapter. Any device designated, intended, and used solely for the transportation of infants, the handicapped, or incapacitated persons, devices designed, intended, and used for the transportation of merchandise to and from the place of purchase and other wheeled devices, when being used for either of these purposes shall be exempt from this chapter. Furthermore, the city board may suspend the enforcement provisions of this chapter to accommodate special events when so requested by the event organizer. (as added by Ord. #423, July 2007)

TITLE 12

BUILDING UTILITY, ETC. CODES

CHAPTER

1. RESERVED FOR FUTURE USE.
2. RESERVED FOR FUTURE USE.
3. BUILDING CODE.
4. EXISTING BUILDING CODE.
5. PLUMBING CODE.
6. FUEL GAS CODE.
7. MECHANICAL CODE.
8. RESIDENTIAL CODE.
9. ENERGY CONSERVATION CODE.
10. PROPERTY MAINTENANCE CODE/HOUSING CODE.
11. RESERVED FOR FUTURE USE.
12. RESERVED FOR FUTURE USE (MOVED TO TITLE 10).
13. UNSAFE BUILDING CODE.
14. RESERVED FOR FUTURE USE.
15. RESERVED FOR FUTURE USE.
16. FAIR HOUSING CODE.
17. RESERVED FOR FUTURE USE.
18. RESERVED FOR FUTURE USE.
19. RESERVED FOR FUTURE USE.
20. RESERVED FOR FUTURE USE.

CHAPTER 1

[RESERVED FOR FUTURE USE]

CHAPTER 2

[RESERVED FOR FUTURE USE]

CHAPTER 3

BUILDING CODE

SECTION

- 12-301. Building code adopted.
- 12-302. Modifications.
- 12-303. Available in recorder's office.
- 12-304. Violations and penalty.
- 12-305. [Deleted.]

12-301. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Building Code,¹ 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Building Code. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-302. Modifications. (1) Definitions. Whenever in the International Building Code reference is made to the duties of a certain official named therein, that designated official of the City of Henderson who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Building Code are concerned.

(2) Section 101.1. Insert "City of Henderson, Tennessee as the name of the jurisdiction.

(3) Section 1612.3. Insert "City of Henderson and/or Chester County Tennessee as the name of the jurisdiction and Insert "May 4, 2009" as the date of issuance.

(4) Permit fees. The schedule of permit fees shall be set from time to time by resolution of the Board of Mayor and Aldermen. (Ord. #322, Dec. 1998, modified, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

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

12-303. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Building Code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-304. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Building Code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-305. [Deleted.] (Ord. #322, Dec. 1998, as deleted by Ord. #437, Nov. 2008)

CHAPTER 4

EXISTING BUILDING CODE**SECTION**

- 12-401. Existing building code adopted.
12-402. Modifications.
12-403. Available in recorder's office.
12-404. Violations and penalty.

12-401. Existing building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Existing Building Code,¹ 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Existing Building Code. (as added by Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-402. Modifications. (1) Definitions. Whenever in the International Existing Building Code reference is made to the duties of a certain official named therein, that designated official of the City of Henderson who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Existing Building Code are concerned.

(2) Section 101.1. Insert "City of Henderson, Tennessee as the name of the jurisdiction.

(3) Permit fees. The schedule of permit fees shall be set from time to time by resolution of the board of mayor and aldermen. (as added by Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-403. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of the International Existing Building Code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as added by Ord. #534, Dec. 2020 *Ch3_08-12-21*)

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

12-404. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Existing Building Code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #534, Dec. 2020 *Ch3_08-12-21*)

CHAPTER 5

PLUMBING CODE

SECTION

- 12-501. Plumbing code adopted.
- 12-502. Modifications.
- 12-503. Available in recorder's office.
- 12-504. Violations and penalty.
- 12-505. [Deleted.]

12-501. Plumbing code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Plumbing Code,¹ 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Plumbing Code. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-502. Modifications. (1) Definitions. Whenever in the International Plumbing Code reference is made to the duties of a certain official named therein, that designated official of the City of Henderson who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Plumbing Code are concerned.

(2) Section 101.1. Insert "City of Henderson, Tennessee as the name of the jurisdiction.

(3) Section 305.4.1. Insert "Twelve Inches (12)" for depth of Septic and "Twelve Inches (12)" for depth of Sewer.

(3) Section 903.1. Insert "Six Inches (6)" for vent above the roof.

(4) Section 106.6.2. Permit fees. The schedule of permit fees shall be set from time to time by resolution of the Board of Mayor and Aldermen. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

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

12-503. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Plumbing Code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-504. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Plumbing Code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-505. [Deleted.] (Ord. #322, Dec. 1998, as deleted by Ord. #437, Nov. 2008)

CHAPTER 6

FUEL GAS CODE

SECTION

- 12-601. Gas code adopted.
- 12-602. Bond and license.
- 12-603. Modifications.
- 12-604. Violations.
- 12-605. Permit fees.
- 12-606. Deleted.

12-601. Fuel gas code adopted. The International Fuel Gas Code¹, 2018 edition, including Appendix A and C, together with all amendments thereto, are hereby adopted and incorporated in this section by reference and made part hereof as fully and completely as if copied at length herein, subject to the amendments set forth in this section. (Ord. #322, Dec. 1998, as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-602. Bond and license. (1) In order to protect the public safety, no person shall engage in or work at the installation, extension, or alteration of gas piping or gas appliances, until such person shall have secured a license as hereinafter provided, and shall have executed and delivered to the director of the gas department or his authorized representative a certificate of liability insurance in the minimum amount of one million dollars (\$1,000,000.00) to cover all work performed under the license issued hereunder. On the first day of January of each year following the insurance of a license hereunder, said contractor shall have executed and delivered to the director of the gas department or his authorized representative a certificate of liability insurance showing said insurance to be in effect for the coming year. Failure to provide said certificate as provided above shall render said contractor's license to be null and void.

(2) Upon approval of said certificate of liability insurance, the person desiring to do such work shall secure from the director of the gas department or his authorized representative a non-transferable license which shall run until the first day of January next succeeding its issuance unless sooner revoked. The person obtaining a license shall pay the set fee.

(3) Nothing herein contained shall be construed as prohibiting an individual from installing or repairing his own appliance or installing,

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

extending, replacing, altering, or repairing, altering, on his own premises, or as requiring a license or bond from an individual doing such work on his own premises; provided however all such work must be done in conformity with all other provision of the gas code, including those relating to permits, inspections, and fees. (Ord. #322, Dec. 1998, as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-603. Modifications. (1) Whenever the gas code refers to the "Chief Appointing Authority," it shall be deemed to be reference to the board of mayor and alderman.

(2) Section 101.1. Insert "City of Henderson, Tennessee as the name of the jurisdiction.

(3) Section 106.6.2. Permit fees. The schedule of permit fees shall be set from time to time by resolution of the Board of Mayor and Aldermen.

(4) Adopt: Appendix "A" Sizing and Capacities of Gas Piping.

(5) Adopt: Appendix "C" Exit Terminals of Mechanical Draft and Direct-Vent Venting Systems. (Ord. #322, Dec. 1998, modified, as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-604. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Fuel Gas Code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #322, Dec. 1998, as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-605. Permit fees. All fees are set forth in a "schedule of gas permit fees" as authorized and approved from time to time by resolution of the board of mayor and alderman and will be posted in the building and zoning department. (Ord. #322, Dec. 1998, as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-606. Deleted. (Ord. #322, Dec. 1998, as deleted by Ord. #489, July 2015 *Ch3_08-12-21*)

CHAPTER 7

MECHANICAL CODE

SECTION

- 12-701. Mechanical code adopted.
- 12-702. Modifications.
- 12-703. Available in recorder's office.
- 12-704. Violations and penalty.
- 12-705. Deleted.

12-701. Mechanical code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Mechanical Code,¹ 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Mechanical Code. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-702. Modifications. (1) Definitions. Whenever in the International Mechanical Code reference is made to the duties of a certain official named therein, that designated official of the City of Henderson who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Mechanical Code are concerned.

(2) Permit fees. The schedule of permit fees shall be set from time to time by resolution of the Board of Mayor and Aldermen. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-703. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502, one (1) copy of the International Mechanical Code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #322, Dec. 1998, as replaced

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

by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-704. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Mechanical Code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-705. Deleted. (Ord. #322, Dec. 1998, as deleted by Ord. #437, Nov. 2008)

CHAPTER 8

RESIDENTIAL CODE

SECTION

- 12-801. Residential code adopted.
- 12-802. Modifications.
- 12-803. Available in recorder's office.
- 12-804. Violations and penalty.

12-801. Residential code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Mechanical Code,¹ 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Mechanical Code. (as added by Ord. #461, Sept. 2010, as replaced by Ord. #486, Oct. 2014 *Ch3_08-12-21*, Ord. #489, July 2015 *Ch3_08-12-21*, Ord. #517, Aug. 2018 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-802. Modifications. The following sections of the 2018 International Residential Code are hereby revised, amended or deleted as follows:

- (1) Section R313 Automatic Sprinkler Systems is not mandatory, pursuant to TCA § 68-120-101(a)(8).
- (2) Chapters 34-43 relating to Electrical Installations are deleted and electrical standards adopted in 0708-02-01 Electrical Installations shall apply.
- (3) Figure R301.1(2) Seismic Design Categories is deleted and replaced with Figure 301.2(2) Seismic Design Categories Site Class D from 2015 IRC.
- (4) Section R314.6 Power Source relating to Smoke Alarms is amended to create Exception 3 that shall read:

Exception 3. Interconnection and hardwiring of smoke alarms in existing areas shall not be required where the alterations or repairs do not result in removal of interior walls or ceiling finishes exposing the structure.

- (5) Section N1102.4.1.2 (R402.4.1.2) Testing is replaced with Section N1102.4.2.1 Testing Option and Section N1102.4.2.2 Visual Inspection from 2009 IRC.

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

(6) Section N1103.3.3 (R403.3.3) Duct Testing (Mandatory) and Section N1103.3.4 (R403.3.4) Duct Leakage (Prescriptive) are optional.

(7) Table N1102.1.2 (R402.1.2) Insulation and Fenestration Requirement by Component and Table N1102.1.4 (R402.1.4) Equivalent U-Factors from 2018 IRC are replaced with Table N1102.1 Insulation and Fenestration Requirements by Component and Table N1102.1.2 Equivalent U-Factor from 2009 IRC.

(8) Section N1102.4.4 (R402.4.4) Rooms Containing Fuel-Burning Appliances is deleted in its entirety.

(9) Table N 1102.1 Insulation and Fenestration Requirements by Component in the 2009 edition is adopted and amended by adding the following as footnote "I": "Log walls complying with ICC400 and with a minimum average wall thickness of 5" or greater shall be permitted in Zone 3 when a Fenestration U-Factor of .50 or lower is used, a Skylight U-Factor of .65 or lower is used, a Glazed Fenestration SHGC of .30 or lower is used, a 90 AFUE Furnace is used, an 85 AFUE Boiler is used, and a 9.0 HSPF Heat Pump (heating) and 15 SEER (cooling) are used."

(10) International Energy Conservation Code (IECC), 2018 edition, published by the ICC, except that:

(a) Section R402.4.1.2 Testing is deleted and replaced with Section 402.4.2.1 Testing Option and Section 402.4.2.2 Visual Inspection Option from 2009 IECC.

(b) Section R403.3.3 Duct Testing (Mandatory) and Section R403.3.4 Duct Leakage (Prescriptive) are optional.

(c) Table 402.1.2 Insulation and Fenestration Requirements by Component and Table R402.1.4 Equivalent U-Factors are deleted and replaced with Table 402.1.1 Insulation and Fenestration Requirements by Component and Table 402.1.3 Equivalent U-Factors 2009 IECC.

Delete: Section R105.2 Building #1,

Section R101.1. Insert: CITY OF HENDERSON, TENNESSEE

Table R301.2 (1) Insert:

Ground Snow Load - 10
 Wind Design Speed - 115 MPH
 Topographic Effects - None
 Seismic Design Category - D o
 Weathering - Moderate
 Frost Line Depth - 12 inches
 Termite - Moderate to Heavy
 Winter Design Temp - 18°
 Summer Design Temp - 95°
 Ice Barrier Underlayment Required - None

Flood Hazard - See Adopted Flood Hazard District Ordinance
Air Freezing Index - Less than 1500
Mean Annual Temperature - 59.4° F

Section P2603.5.1 Insert: Twelve Inches (12") in Two Locations.

Permit fees. The schedule of permit fees shall be set from time to time by resolution of the Board of Mayor and Aldermen. (as added by Ord. #461, Sept. 2010, as replaced by Ord. #486, Oct. 2014 **Ch3_08-12-21**, Ord. #489, July 2015 **Ch3_08-12-21**, Ord. #517, Aug. 2018 **Ch3_08-12-21**, and Ord. #534, Dec. 2020 **Ch3_08-12-21**)

18-803. Available in recorder's office. That a copy of the 2018 International Residential Code shall remain on file in the office of the City Recorder of the City of Henderson, being marked and designated as the International Residential Code, 2018 edition, including Appendices B, C, G and N (see International Residential Code Section R102.5, 2018 edition), as published by the International Code Council, be and is hereby adopted as the residential code of the City of Henderson, in the State of Tennessee for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one-family and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said residential code on file in the office of the City Recorder of the City of Henderson are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in § 8-302 of this ordinance. (as added by Ord. #461, Sept. 2010, as replaced by Ord. #486, Oct. 2014 **Ch3_08-12-21**, Ord. #489, July 2015 **Ch3_08-12-21**, and Ord. #517, Aug. 2018 **Ch3_08-12-21**)

12-804. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Residential Code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as added by Ord. #461, Sept. 2010, as replaced by Ord. #486, Oct. 2014 **Ch3_08-12-21**, Ord. #489, July 2015 **Ch3_08-12-21**, and Ord. #517, Aug. 2018 **Ch3_08-12-21**)

CHAPTER 9

ENERGY CONSERVATION CODE

SECTION

12-901. Energy conservation code adopted.

12-902. Modifications.

12-903. Available in recorder's office.

12-904. Violations and penalty.

12-901. Energy conservation code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Energy Conservation Code,¹ 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code along with the local amendments adopted in the International Residential Code (IRC), and is hereinafter referred to as the International Energy Conservation Code. (as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-902. Modifications. (1) Definitions. Whenever in the International Energy Conservation Code reference is made to the duties of a certain official named therein, that designated official of the City of Henderson who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Energy Conservation Code are concerned.

(2) Permit fees. The schedule of permit fees shall be set from time to time by resolution of the Board of Mayor and Aldermen. (as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

12-903. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of the International Energy Conservation Code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

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

12-904. Violations and penalty. It shall be unlawful for any person to violate or fail to comply with any provision of the International Energy Conservation Code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (as replaced by Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #534, Dec. 2020 *Ch3_08-12-21*)

CHAPTER 10

PROPERTY MAINTENANCE CODE

SECTION

- 12-1001. Property maintenance/housing code adopted.
- 12-1002. Modifications.
- 12-1003. Conflicts with dilapidated dwelling code.
- 12-1004. Available in recorder's office.
- 12-1005. Violations and penalty.

12-1001. Property maintenance code/housing code adopted.

Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of establishing the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment, the International Property Maintenance Code,¹ 2018 edition, as prepared and adopted by the International Code Council is hereby adopted and incorporated by reference as a part of this code, and is hereinafter referred to as the International Property Maintenance/Housing Code. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008, Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #584, Dec. 2020 *Ch3_08-12-21*)

12-1002. Modifications. (1) Definitions. Whenever in the International Property Maintenance Code reference is made to the duties of a certain official named therein, that designated official of the City of Henderson who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of the International Property Maintenance Code are concerned.

(2) Section 101.1. Insert "City of Henderson, Tennessee as the name of the jurisdiction.

(3) Section 302.4. Insert "Twelve Inches (12)" for height of Weeds or Grass.

(4) Section 304.14. Insert "April 1st to September 30th" for Insect Screens.

(5) Section 602.3. Insert "October 1st to March 31th" for Heat in Habitable Spaces.

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

(6) Section 602.4. Insert "October 1st to March 31th" for Heat in Work Spaces.

(7) Section 103.5. Permit fees. The schedule of permit fees shall be set from time to time by resolution of the Board of Mayor and Aldermen. (Ord. #322, Dec. 1998, modified, as replaced by Ord. #437, Nov. 2008 Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #584, Dec. 2020 *Ch3_08-12-21*)

12-1003. Conflicts with dilapidated dwelling code. If any portion of the International Property Maintenance Code conflicts with the requirements of the Dilapidated Dwelling Code, then the Dilapidated Dwelling Code shall take precedence. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008 Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #584, Dec. 2020 *Ch3_08-12-21*)

12-1004. Available in recorder's office. Pursuant to the requirements of Tennessee Code Annotated, § 6-54-502 one (1) copy of the International Property Maintenance Code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008 Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #584, Dec. 2020 *Ch3_08-12-21*)

12-1005. Violations and penalty. . It shall be unlawful for any person to violate or fail to comply with any provision of the International Property Maintenance Code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty of up to fifty dollars (\$50.00). Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #322, Dec. 1998, as replaced by Ord. #437, Nov. 2008 Ord. #489, July 2015 *Ch3_08-12-21*, and Ord. #584, Dec. 2020 *Ch3_08-12-21*)

CHAPTER 11

[RESERVED FOR FUTURE USE]

CHAPTER 12

[RESERVED FOR FUTURE USE]

(moved to title 10 by Ord. #534, Dec. 2020 *Ch3_08-12-21*)

CHAPTER 13

[RESERVED FOR FUTURE USE]

CHAPTER 14

[RESERVED FOR FUTURE USE]

CHAPTER 15**DILAPIDATED DWELLING CODE****SECTION**

- 12-1501. Finding of board of mayor and alderman.
- 12-1502. Definitions.
- 12-1503. Initiation of proceedings; hearings.
- 12-1504. Orders to owners of unfit structures.
- 12-1505. Public officer may cause to repair, etc.
- 12-1506. Public officer may cause to demolish, etc.
- 12-1507. Lien for expenses.
- 12-1508. Determining property unfit.
- 12-1509. Service of complaint or orders.
- 12-1510. Enjoining enforcement of orders.
- 12-1511. Additional powers of public officer.
- 12-1512. Powers conferred.
- 12-1513. Structures unfit deemed unlawful.
- 12-1514. Penalty for violation of code.

12-1501. Finding of board of mayor and alderman. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the City of Henderson hereby finds that there exist in this municipality 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. The City of Henderson hereby ordains that such properties be cleared, cleaned or abated and that such dwellings shall be repaired, closed or demolished in the manner herein described. (Ord. #322, Dec. 1998)

12-1502. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

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

(2) "Governing body" shall mean the Board of Mayor and Alderman of the City of Henderson.

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

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

(5) "Parties of interest" shall mean all individuals, associations, corporations and other who have interest of record in 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 municipality or state relating to health, fire, building regulations, or other activities concerning structures in the municipality.

(8) "Public officer" shall mean the building official or his designee who is authorized by this chapter to exercise the powers prescribed herein and pursuant to Tennessee Code Annotated, § 13-21-101 et seq.

(9) "Structures" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (Ord. #322, Dec. 1998)

12-1503. 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 (or 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 that 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. (Ord. #322, Dec. 1998)

12-1504. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the proceeding section, the public officer determines that the structure under consideration is unfit for human occupancy 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 reasonable value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure. (Ord. #322, Dec. 1998)

12-1505. Public officer may cause to 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. A placard with the following words may be placed on the premises: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited unlawful." (Ord. #322, Dec. 1998)

12-1506. Public officer may cause to demolish, etc. 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. A placard with the following words will be placed on the premises: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited unlawful." (Ord. #322, Dec. 1998)

12-1507. Lien for expenses. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be assessed against the owner of the property, and shall upon the filing of the notice with the Office of the Register of Deeds of Chester County, 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 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 taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes. In addition, the municipality may collect the cost 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 or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed

or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Chester County by the public officer, shall be secured in such manner as may be directed by such court. Nothing in this section shall be construed to impair or limit in any way the power of the City of Henderson to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise. (Ord. #322, Dec. 1998)

12-1508. Determining property unfit. 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 neighboring structures or other residents of the City of Henderson. Such conditions may include the following (without limiting the generality of the foregoing): defect therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation, disrepair; structural defects; or uncleanliness. (Ord. #322, Dec. 1998)

12-1509. Service of complaint 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 Chester County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (Ord. #322, Dec. 1998)

12-1510. Enjoining enforcement of orders. Any persons 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 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 effected by an order of the public officer shall be entitled to recover any damages for actions taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer. (Ord. #322, Dec. 1998)

12-1511. Additional powers of public officer. The public officer, in order to carry out and effectuate the purpose and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

(1) To investigate conditions of the structure 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. (Ord. #322, Dec. 1998)

12-1512. Powers conferred. This shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of this charter or any other ordinances or regulations, not 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. (Ord. #322, Dec. 1998)

12-1513. Structures unfit 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 dwelling 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. (Ord. #322, Dec. 1998)

12-1514. Penalty for violation of code. Violation of this chapter shall subject the offender to a penalty of up to five hundred dollars (\$500.00) for each offense. Each day a violation is allowed to continue shall constitute a separate offense. (Ord. #322, Dec. 1998)

CHAPTER 16**FAIR HOUSING PLAN****SECTION**

- 12-1601. Definitions.
- 12-1602. Unlawful acts.
- 12-1603. Exception.
- 12-1604. Access to multiple-listing, etc.
- 12-1605. Complaints.
- 12-1606. Violations.
- 12-1607. Exhaustion of remedies.

12-1601. Definitions. Whenever used in this chapter, the following words and terms shall have the following meanings unless the context necessarily requires otherwise:

(1) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or locations of any such building.

(2) "Family" includes a single individual.

(3) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trust un-incorporated organizations, trustee, trustees in bankruptcy, receivers and fiduciaries.

(4) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(5) "Fair housing committee" means the board of mayor and alderman which will hear, make determination, issue findings in all cases of discriminatory practice. (Ord. #322, Dec. 1998)

12-1602. Unlawful acts. Subject to the exceptions hereinafter set out, it shall be unlawful for any person to do any of the following acts:

(1) To refuse to sell or rent after the making of a bona fide offer to do so or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, national origin, or sex.

(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, national origin, or sex.

(3) To make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement, with respect to the sale or

rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin or sex.

(4) To represent to any person because of race, color, religion, national origin, or sex that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

(5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, or national origin. (Ord. #322, Dec. 1998)

12-1603. Exception. Nothing in this chapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operated for other than commercial purposes to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, national origin, or sex. (Ord. #322, Dec. 1998)

12-1604. Access to multiple-listing services, etc. It shall be unlawful to deny any person access to or membership or participation in any multiple listing services, real estate brokers' organization or other service, organization or facility relating to business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation on account of race, color, religion, national origin, or sex. (Ord. #322, Dec. 1998)

12-1605. Complaints. Any person who claims to have been injured by an act made unlawful by this chapter, or who claims that he will be injured by such an act, may file a complaint with the mayor, chairman of the "fair housing committee." A complaint shall be filed within 30 days after the alleged unlawful act occurred. Complaints shall be in writing and shall contain such information and be in such form as required by the said committee. Upon receipt of a complaint, the committee shall promptly investigate it and shall complete its investigation within 30 days. If a majority of the committee finds reasonable cause to believe that a violation of this chapter has occurred, or if a person charged with a violation of this chapter refuses to furnish information to said committee, the committee may request the city attorney to prosecute an action in the city court against the person charged in the complaint. Such request shall be in writing. Upon receiving such written request and with the assistance of the aggrieved person and said committee, within the 15 days after receiving such request, the city attorney shall be prepared to prosecute an action in the city court, provided a warrant is sworn out by the aggrieved person and served upon the person or persons charged with the offense. (Ord. #322, Dec. 1998)

12-1606. Violations. Any person violating any provision of this chapter shall be guilty of an offense and upon conviction shall pay a penalty of not more than \$500.00 for each offense. Each day such violation shall continue constitutes a separate offense. (Ord. #322, Dec. 1998, modified)

12-1607. Exhaustion of remedies. Nothing in this chapter requires any person claiming to have been injured by an act made unlawful by this chapter to exhaust the remedies provided herein, nor prevent any such person from seeking relief at any time under the Federal Civil Rights Act or other applicable legal provisions. (Ord. #322, Dec. 1998)

CHAPTER 17

[RESERVED FOR FUTURE USE]

CHAPTER 18

[RESERVED FOR FUTURE USE]

CHAPTER 19

[RESERVED FOR FUTURE USE]

CHAPTER 20

[RESERVED FOR FUTURE USE]

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. MISCELLANEOUS.
2. JUNKYARDS.
3. ABANDONED OR NONOPERATING VEHICLES.

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Building official.
- 13-102. Smoke, soot, cinders, etc.
- 13-103. Stagnant water.
- 13-104. Weeds.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. House trailers.
- 13-108. Food service sanitation ordinance adopted by reference.

13-101. Building official. The "building official" shall be appointed by the board of mayor and aldermen to administer and enforce health and sanitation regulations within the city. (1976 Code, § 8-101, modified)

13-102. Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business. (1976 Code, § 8-105)

13-103. Stagnant water. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as to effectively prevent the breeding of mosquitoes. (1976 Code, § 8-106)

¹Municipal code references

Animal control: title 10.

Littering streets, etc.: § 16-107.

Toilet facilities in beer places: § 8-212(11).

13-104. Weeds. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an order by the city recorder or chief of police or building official to cut such vegetation when it has reached a height of over one (1) foot. (1976 Code, § 8-107, modified)

13-105. Dead animals. Any person owning or having possession of any dead animal not intended for use as food shall promptly call the city sanitation department and dispose of such animal in accordance with instructions from the superintendent of that department. (1976 Code, § 8-108)

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. (1976 Code, § 8-109)

13-107. House trailers. (See § 14-201 in this code.) (1976 Code, § 8-104)

13-108. Food service sanitation ordinance adopted by reference.

(1) The definitions; the inspection of food-service establishments; the issuance, suspension, and revocation of permits to operate food-service establishments; the prohibiting of the sale of adulterated or misbranded food or drink; and the enforcement of food service sanitation regulations shall be regulated in accordance with the unabridged form of the 1962 edition of the United States Public Health Service Sanitation Ordinance and Code,¹ three copies of which are on file in the office of the recorder provided that the words "municipality of _____" in said unabridged form shall be understood to refer to the City of Henderson, Tennessee; provided further, that in said ordinance all parenthetical phrases referring to grading and subsection H. 2. e. shall be understood to be deleted; and provided further, that subsections H. 7. and H. 8. shall be replaced respectively by subsections (2) and (3) below.

(2) Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00). In addition thereto,

¹This ordinance and the code are contained in Public Health Service Publication No. 934 which is for sale by the Superintendent of Documents, U. S. Government printing Office, Washington, D. C., 20402. Price 55 cents.

such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation.

(3) This ordinance shall be in full force and effect from and after its adoption as provided by law and all ordinances and parts of ordinances in conflict with this ordinance are hereby repealed. (1976 Code, § 8-113, modified)

CHAPTER 2**JUNKYARDS****SECTION****13-201. Junkyards.**

13-201. Junkyards.¹ All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1976 Code, § 8-111)

¹State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 3

ABANDONED OR NONOPERATING VEHICLES

SECTION

13-301. Definitions.

13-302. Abandonment of vehicles.

13-303. Leaving of wrecked, nonoperating vehicle on street.

13-304. Disposition of wrecked or discarded vehicles.

13-305. Impounding.

13-306. Disposal of "abandoned motor vehicles."

13-301. Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter:

(1) "Person" Any person, firm, partnership, association, corporation, company, or organization of any kind.

(2) "Vehicle" A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, an automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

(3) "Street or highway" The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(4) "Property" Any real property within the city or any city property within or without the corporate limits which is not a street or highway.

(5) "Chief of police" The chief of police of the City of Henderson or his authorized representative. (1976 Code, § 9-601)

13-302. Abandonment of vehicles. No person shall abandon any vehicle within the city or on city property within or without the corporate limits, and no person shall leave any vehicle at any place within the city or on city property within or without the corporate limits for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (1976 Code, § 9-602)

13-303. Leaving of wrecked, nonoperating vehicle on street. No person shall leave any partially dismantled, nonoperating, wrecked, or junked vehicle on any street or highway within the city or on city property within or without the corporate limits, provided, such vehicle may be left at a place operated by the city for dumping and disposal of garbage and rubbish in accordance with the ordinances of the city and the rules and regulations governing such dumping ground. (1976 Code, § 9-603)

13-304. Disposition of wrecked or discarded vehicles. No person in charge or control of any property other than city property within the city, whether as owner, tenant, occupant, lessee, or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked, or discarded vehicle to remain on such property longer than thirty (30) days, and no person shall leave any such vehicle on any property other than city property within the city longer than thirty (30) days or on city property within or without the corporate limits for a longer time than forty-eight (48) hours; except that this chapter shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the lawful operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained in an lawful place and manner by the city. (1976 Code, § 9-604)

13-305. Impounding. The chief of police is hereby authorized to remove or have removed any vehicle left at any place within the city or on any city property within or without the corporate limits which reasonably appears to be in violation of this chapter or lost, stolen, or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with the ordinances of the city; provided, however, that any vehicle left at any place, other than on city property, shall not be removed and impounded as provided herein until the chief of police shall have given written notice to remove said vehicle within ten (10) days of the mailing of such notice and of the intention of the chief of police to remove and impound such vehicle if it has not been removed at the end of such time. Such notice shall be given by:

- (1) affixing notice on such vehicle,
- (2) sending notice by mail to the owner of such vehicle at his last known address if the owner is reasonably ascertainable, and
- (3) by sending notice by mail to the person owning or controlling the property on which such vehicle is located.

The chief of police may enter upon private property at all reasonable hours for the purpose of inspecting such vehicle, posting notice thereon, and removing and impounding such vehicle, and it shall be unlawful for any person to prevent the chief of police from entering on private property for purposes of carrying out his duties hereunder or to interfere with him in the lawful performance of his duties under the provisions of this chapter. (1976 Code, § 9-605)

13-306. Disposal of "abandoned motor vehicles". "Abandoned motor vehicles" as defined in Tennessee Code Annotated, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of Tennessee Code Annotated §§ 55-16-103 through 55-16-109. (1976 Code, § 9-606)

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Additional powers.

14-101. Creation and membership. Pursuant to the provisions of Tennessee Code Annotated, § 13-4-101 there is hereby created a municipal planning commission, hereinafter referred to as the planning commission. The planning commission shall consist of seven (7) members; two (2) of these shall be the mayor and another member of the governing body selected by the governing body; the other five (5) members shall be appointed by the mayor. Except for the initial appointments, the terms of the five (5) members appointed by the mayor shall be for five (5) years each. The five (5) members first appointed shall be appointed for terms of one (1), two (2), three (3), four (4), and five (5) years respectively so that the term of one (1) member expires each year. The terms of the mayor and the member selected by the governing body shall run concurrently their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor. (1976 Code, § 11-101, modified)

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. (1976 Code, § 11-102)

14-103. Additional powers. Having been designated as a regional planning commission, the municipal planning commission shall have the additional powers granted by, and shall otherwise be governed by the provisions of the state law relating to regional planning commissions. (1976 Code, § 11-103)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the City of Henderson shall be governed by Ordinance Number 375, titled "Regional Zoning Ordinance of the City of Henderson, Tennessee," Ordinance Number 374, titled "Regional Zoning Map of Henderson, Tennessee," and Ordinance Number 305, titled "Mobile Home Park Ordinance," and any amendments thereto.¹ (as amended by Ord. #375, April 2003)

¹Ordinances #374, #375, and #305, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

1. MISCELLANEOUS.
2. EMERGENCY VEHICLES.
3. SPEED LIMITS.
4. TURNING MOVEMENTS.
5. STOPPING AND YIELDING.
6. PARKING.
7. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Adoption of state traffic statutes.
- 15-102. Motor vehicle requirements.
- 15-103. Driving on streets closed for repairs, etc.
- 15-104. Reckless driving.
- 15-105. One-way streets.
- 15-106. Unlaned streets.
- 15-107. Laned streets.
- 15-108. Yellow lines.
- 15-109. Miscellaneous traffic-control signs, etc.
- 15-110. General requirements for traffic-control signs, etc.
- 15-111. Unauthorized traffic-control signs, etc.
- 15-112. Presumption with respect to traffic-control signs, etc.

¹Municipal code reference

Excavations and obstructions in streets, etc.: title 16.

²State law references

Under Tennessee Code Annotated, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by Tennessee Code Annotated, § 55-10-401; failing to stop after a traffic accident, as prohibited by Tennessee Code Annotated, § 55-10-101, et seq.; driving while license is suspended or revoked, as prohibited by Tennessee Code Annotated, § 55-7-116; and drag racing, as prohibited by Tennessee Code Annotated, § 55-10-501.

- 15-113. School safety patrols.
- 15-114. Driving through funerals or other processions.
- 15-115. Clinging to vehicles in motion.
- 15-116. Riding on outside of vehicles.
- 15-117. Backing vehicles.
- 15-118. Projections from the rear of vehicles.
- 15-119. Causing unnecessary noise.
- 15-120. Vehicles and operators to be licensed.
- 15-121. Passing.
- 15-122. Damaging pavements.
- 15-123. Bicycle riders, etc.
- 15-124. Financial responsibility of drivers.

15-101. Adoption of state traffic statutes. By the authority granted under Tennessee Code Annotated, § 16-18-302, the City of Henderson 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 through 55-8-131, and §§ 55-8-133 through 55-8-180. Additionally, the City of Henderson adopts Tennessee Code Annotated, §§ 55-4-101 through 55-4-133, § 55-4-135 through 55-4-137, §§55-8-181 through 55-8-191, § 55-8-193, § 55-8-199, § 55-8-207, § 55-9-107, § 55-9-303, § 55-9-402, § 55-9-407, § 55-9-414, §§ 55-9-601 through 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351, by reference as if fully set forth in this section. (as replaced by Ord. #419, Dec. 2006, Ord. #508, April 2018 *Ch3_08-12-21*, and Ord. #524, June 2019 *Ch3_08-12-21*)

15-102. 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. (1976 Code, § 9-101)

15-103. 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. (1976 Code, § 9-106)

15-104. Reckless driving. Irrespective of the posted speed limit, no person, including operators of emergency vehicles, shall drive any vehicle in willful or wanton disregard for the safety of persons or property. (1976 Code, § 9-107)

15-105. 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. (1976 Code, § 9-109)

15-106. 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. (1976 Code, § 9-110)

15-107. 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. (1976 Code, § 9-111)

15-108. Yellow lines. On streets with a yellow line placed to the right of any lane line or center line such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1976 Code, § 9-112)

15-109. 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.

It shall be unlawful for any pedestrian or the operator of any vehicle to willfully violate or fail to comply with the reasonable directions of any police officer. (1976 Code, § 9-113)

¹Municipal code references

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

15-110. General requirements for traffic-control signs, etc. All traffic-control signs, signals, markings, and devices shall conform to the latest revision of the Manual on Uniform Traffic Control Devices for Streets and Highways,¹ published by the U. S. Department of Transportation, Federal Highway Administration, and shall, so far as practicable, be uniform as to type and location throughout the city. This section shall not be construed as being mandatory but is merely directive. (1976 Code, § 9-114)

15-111. Unauthorized traffic-control signs, etc. No person shall place, maintain, or display upon or in view of any street, any unauthorized sign, signal, marking, or device which purports to be or is an imitation of or resembles an official traffic-control sign, signal, marking, or device or railroad sign or signal, or which attempts to control the movement of traffic or parking of vehicles, or which hides from view or interferes with the effectiveness of any official traffic-control sign, signal, marking, or device or any railroad sign or signal. (1976 Code, § 9-115)

15-112. Presumption with respect to traffic-control signs, etc. When a traffic-control sign, signal, marking, or device has been placed, the presumption shall be that it is official and that it has been lawfully placed by the proper authority. All presently installed traffic-control signs, signals, markings, and devices are hereby expressly authorized, ratified, approved, and made official. (1976 Code, § 9-116)

15-113. 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. (1976 Code, § 9-117)

15-114. 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. (1976 Code, § 9-118)

15-115. Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any

¹This manual may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1976 Code, § 9-120)

15-116. 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. (1976 Code, § 9-121)

15-117. 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. (1976 Code, § 9-122)

15-118. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half ($\frac{1}{2}$) hour after sunset and one-half ($\frac{1}{2}$) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred (200) feet from the rear of such vehicle. (1976 Code, § 9-123)

15-119. Causing unnecessary noise. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1976 Code, § 9-124)

15-120. Vehicles and operators to be licensed. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law" or the "Uniform Motor Vehicle Operators' and Chauffeurs' License Law." (1976 Code, § 9-125)

15-121. Passing. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1976 Code, § 9-126)

15-122. Damaging pavements. No person shall operate upon any street of the city any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1976 Code, § 9-119)

15-123. Bicycle riders, etc. Every person riding or operating a bicycle, motorcycle, or motor driven cycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the 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, or motor driven cycles.

No person operating or riding a bicycle, motorcycle, or motor driven cycle shall ride other than upon or astride the permanent and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

No bicycle, motorcycle, or motor driven cycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

No person operating a bicycle, motorcycle, or motor driven cycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebar.

No person under the age of sixteen (16) years shall operate any motorcycle, motorbike, or motor driven cycle while any other person is a passenger upon said motor vehicle.

All motorcycles and motor driven cycles operated on public ways within the corporate limits shall be equipped with crash bars approved by the state's commissioner of safety.

Each driver of a motorcycle or motor driven cycle and any passenger thereon shall be required to wear on his head a crash helmet of a type approved by the state's commissioner of safety.

Every motorcycle or motor driven cycle operated upon any public way within the corporate limits shall be equipped with a windshield of a type approved by the state's commissioner of safety, or, in the alternative, the

operator and any passenger on any such motorcycle or motor driven cycle shall be required to wear safety goggles of a type approved by the state's commissioner of safety for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

It shall be unlawful for any person to operate or ride on any vehicle in violation of this section and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle or motor driven cycle in violation of this section. (1976 Code, § 9-127)

15-124. Financial responsibility of drivers. 1. Effective January 1, 2002, every vehicle driven on city streets and the public roads of the City of Henderson, Tennessee, must be in compliance with the Tennessee Financial Responsibility Law.

2. At the time a driver of a motor vehicle is charged with any moving violation under title 55 of the Tennessee Code Annotated, chapter 8 and 10, parts 1 through 5, or chapter 50; or any city ordinance regulating the operation of motor vehicles within the city under this code or ordinances; or 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 purposes of this section, "Proof of Financial Responsibility" means:

a. Documentation, such as the declaration page of an insurance policy, an insurance binder, or an insurance card from an insurance company authorized to do business in Tennessee, stating that a policy of insurance meeting the requirements of the Tennessee Financial Responsibility Law of 1997 has been issued; or

b. A certificate, valid for one (1) year, issued by the Commissioner of the Department of Safety, stating that a cash deposit or bond of the amount required by the Tennessee Financial Responsibility Law of 1997 has been paid or filed with the Commissioner, or has qualified as a self-insurer under Tennessee Code Annotated, 55-12-111;

c. The motor vehicle being operated at the time of the violation was owned by a carrier subject to the jurisdiction of the Department of Safety or the Interstate Commerce Commission, or was owned by the United States, the State of Tennessee, or any political subdivision thereof, and that such motor vehicle was being operated with the owner's consent.

3. It is an offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation of this section is punishable by a fine of not more than fifty dollars (\$50.00).

4. This fine imposed by this section shall be in addition to any other fine imposed for any other violations of state law or any other ordinance under the city code.

5. On or before the court date for the hearing on the citation for failure to provide financial responsibility as required by this section, the person so charged may submit evidence of compliance with this section at the time of the violation. If the city judge is satisfied that compliance with the Tennessee Financial Responsibility Law was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. (as added by Ord. #366, Dec. 2001)

CHAPTER 2

EMERGENCY VEHICLES

SECTION

15-201. Authorized emergency vehicles defined.

15-202. Operation of authorized emergency vehicles.

15-203. Following emergency vehicles.

15-204. Running over fire hoses, etc.

15-201. Authorized emergency vehicles defined. Authorized emergency vehicles shall be fire department vehicles, police vehicles, and such ambulances and other emergency vehicles as are designated by the chief of police. (1976 Code, § 9-102)

15-202. Operation of authorized emergency vehicles.¹ (1) The driver of any authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, subject to the conditions herein stated.

(2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.

(3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

(4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1976 Code, § 9-103)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles:
§ 15-501.

15-203. Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently travelling in response to an emergency call closer than five hundred (500) feet or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1976 Code, § 9-104)

15-204. Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a fireman or policeman. (1976 Code, § 9-105)

CHAPTER 3

SPEED LIMITS

SECTION

15-301. In general.

15-302. At intersections.

15-303. In school zones.

15-304. In congested areas.

15-301. In general. It shall be unlawful for any person to operate or drive a motor vehicle upon any highway or street at a rate of speed in excess of 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. (1976 Code, § 9-201)

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. (1976 Code, § 9-202)

15-303. In school zones. It shall be unlawful for any person to operate or drive a motor vehicle at a rate of speed in excess of fifteen (15) miles per hour when passing a school during recess or while children are going to or leaving school during its opening or closing hours. (1976 Code, § 9-203)

15-304. In congested areas. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the city. (1976 Code, § 9-204)

CHAPTER 4

TURNING MOVEMENTS

SECTION

15-401. Generally.

15-402. Right turns.

15-403. Left turns on two-way roadways.

15-404. Left turns on other than two-way roadways.

15-405. U-turns.

15-401. Generally. No person operating a motor vehicle shall make any turning movement which might affect any pedestrian or the operation of any other vehicle without first ascertaining that such movement can be made in safety and signaling his intention in accordance with the requirements of the state law.¹ (1976 Code, § 9-301)

15-402. Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway. (1976 Code, § 9-302)

15-403. Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of the intersection of the center line of the two roadways. (1976 Code, § 9-303)

15-404. Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1976 Code, § 9-304)

15-405. U-turns. U-turns are prohibited. (1976 Code, § 9-305)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

CHAPTER 5

STOPPING AND YIELDING

SECTION

- 15-501. Upon approach of authorized emergency vehicles.
- 15-502. When emerging from alleys, etc.
- 15-503. To prevent obstructing an intersection.
- 15-504. At railroad crossings.
- 15-505. At "stop" signs.
- 15-506. At "yield" signs.
- 15-507. At traffic-control signals generally.
- 15-508. At flashing traffic-control signals.
- 15-509. At pedestrian-control signals.
- 15-510. Stops to be signaled.

15-501. Upon approach of authorized emergency vehicles.¹ Upon the immediate approach of an authorized emergency vehicle making use of audible and/or visual signals meeting the requirements of the laws of this state, the driver of every other vehicle shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. (1976 Code, § 9-401)

15-502. When emerging from alleys, etc. The drivers of all vehicles emerging from alleys, parking lots, driveways, or buildings shall stop such vehicles immediately prior to driving onto any sidewalk or street. They shall not proceed to drive onto the sidewalk or street until they can safely do so without colliding or interfering with approaching pedestrians or vehicles. (1976 Code, § 9-402)

15-503. To prevent obstructing an intersection. No driver shall enter any intersection or marked crosswalk unless there is sufficient space on the other side of such intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of traffic in or on the intersecting street or crosswalk. This provision shall be effective notwithstanding any traffic-control signal indication to proceed. (1976 Code, § 9-403)

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

15-504. At railroad crossings. Any driver of a vehicle approaching a railroad grade crossing shall stop within not less than fifteen (15) feet from the nearest rail of such railroad and shall not proceed further while any of the following conditions exist:

(1) A clearly visible electrical or mechanical signal device gives warning of the approach of a railroad train.

(2) A crossing gate is lowered or a human flagman signals the approach of a railroad train.

(3) A railroad train is approaching within approximately fifteen hundred (1500) feet of the highway crossing and is emitting an audible signal indicating its approach.

(4) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing. (1976 Code, § 9-404)

15-505. At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk on the near side of the intersection or, if there is no crosswalk, then immediately before entering the intersection and shall remain standing until he can proceed through the intersection in safety. (1976 Code, § 9-405)

15-506. At "yield" signs. The drivers of all vehicles shall yield the right of way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1976 Code, § 9-406)

15-507. At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution":

(a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop":

(a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(4) Steady red with green arrow:

(a) Vehicular traffic facing such signal may cautiously enter the intersection only to make the movement indicated by such arrow but shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(5) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made a vehicle length short of the signal. (1976 Code, § 9-407)

15-508. At flashing traffic-control signals. (1) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the city it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal). When a red lens is illuminated with intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal). When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

(2) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules set forth in § 15-504 of this code. (1976 Code, § 9-408)

15-509. At pedestrian-control signals. Wherever special pedestrian-control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the city, such signals shall apply as follows:

(1) Walk. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by the drivers of all vehicles.

(2) Wait or Don't Walk. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1976 Code, § 9-409)

15-510. Stops to be signaled. No person operating a motor vehicle shall stop such vehicle whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law,¹ except in an emergency. (1976 Code, § 9-410)

¹State law reference
Tennessee Code Annotated, § 55-8-143.

CHAPTER 6

PARKING

SECTION

- 15-601. Generally.
- 15-602. Angle parking.
- 15-603. Occupancy of more than one space.
- 15-604. Where prohibited.
- 15-605. Loading and unloading zones.
- 15-606. Presumption with respect to illegal parking.
- 15-607. Parking of certain trucks prohibited; exception.

15-601. Generally. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this city shall be so parked that its right wheels are approximately parallel to and within eighteen (18) inches of the right edge or curb of the street. On one-way streets where the 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 (18) inches of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 1:00 A.M. and 5:00 A.M. or on any other public street or alley for more than seventy-two (72) consecutive hours without the prior approval of the chief of police.

Furthermore, no person shall wash, grease, or work on any vehicle, except to make repairs necessitated by an emergency, while such vehicle is parked on a public street. (1976 Code, § 9-501)

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 (24) feet. (1976 Code, § 9-502)

15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1976 Code, § 9-503)

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;
- (2) In front of a public or private driveway;
- (3) Within an intersection or within fifteen (15) feet thereof;
- (4) Within fifteen (15) feet of a fire hydrant;
- (5) Within a pedestrian crosswalk;
- (6) Within fifty (50) feet of a railroad crossing;
- (7) Within twenty (20) feet of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of the entrance;
- (8) Alongside or opposite any street excavation or obstruction when other traffic would be obstructed;
- (9) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
- (10) Upon any bridge;
- (11) Alongside any curb painted yellow or red by the city. (1976 Code, § 9-504)

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. (1976 Code, § 9-505)

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. (1976 Code, § 9-512)

15-607. Parking of certain trucks prohibited; exception. It shall be unlawful to park a truck, trailer, or tractor, whose rated capacity is one and one-half (1½) tons or more, upon any of the public streets, alleys, or highways within the corporate limits of the City of Henderson, Tennessee, except when such truck, trailer, or tractor is in the actual process of being loaded or unloaded and then not in excess of the period of time reasonably necessary to load or unload the same. (1976 Code, § 9-505.1)

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. Violation and penalty.
- 15-706. Use of driver's license in lieu of bail.

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. (1976 Code, § 9-701)

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. (1976 Code, § 9-702)

15-703. Illegal parking. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days at a place specified in the citation. (1976 Code, § 9-704, as amended by Ord. #265, Jan. 1993, modified)

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

¹State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

vehicle whose operator is arrested or any unattended vehicle which is parked, so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs or until it is otherwise lawfully disposed of. The fee for impounding a vehicle shall be equal to the fee charged by the wrecker service who tows the vehicle. The storage cost of the impounded vehicle shall be equal to the fee charged by the wrecker service for storage at its lot or if the vehicle is stored at the city impound lot, the storage fee shall equal an amount set from time to time by the board of aldermen. (1976 Code, § 9-705, as amended by Ord. #265, Jan. 1993)

15-705. Violation and penalty. Any violation of this title shall be a civil offense punishable as follows: (1) Traffic citations. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.

(2) Parking citations. Any driver and/or owner issued a parking violation may, within ten (10) days, have the charge against him/her disposed of by paying at the city recorder's office, a fine of twenty dollars (\$20.00) provided he/she waives his/her right to a judicial hearing. An official receipt of the city will be issued to the offender upon payment of the fine. If the offender fails to appear within the ten (10) days, the city shall issue a summons to the driver and/or vehicle owner to appear in city court. (1976 Code, § 9-704, as amended by Ord. #265, Jan. 1993, modified, and amended by Ord. #441, March 2009)

12-706. Use of driver's license in lieu of bail. Pursuant to Tennessee Code Annotated, §§ 55-50-801--55-50-805 whenever any person lawfully possessed of a chauffeur's or operator's license theretofore issued to him by the Department of Safety, State of Tennessee, is issued a citation or arrested and charged with a violation of any municipal ordinance regulating traffic, except driving under the influence of an intoxicant or narcotic drug or leaving the scene of an accident, said 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 in answer to any such charge before said court.

All city officers and employees shall comply fully with the requirements of Tennessee Code Annotated, §§ 55-50-801--55-50-805 and any implementing orders of the Department of Safety, State of Tennessee. (1976 Code, § 9-703)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. MISCELLANEOUS.
2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

SECTION

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Littering streets, alleys, or sidewalks prohibited.
- 16-108. Obstruction of drainage ditches.
- 16-109. Abutting occupants to keep sidewalks clean, etc.
- 16-110. Parades: regulations and permits.
- 16-111. Railroad crossings.
- 16-112. Animals and vehicles on sidewalks.
- 16-113. Fires in streets, etc.
- 16-114. Street names.
- 16-115. House and building numbers.
- 16-116. No basketball goals on right-of-way.

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 with any building or for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1976 Code, § 12-101)

16-102. Trees projecting over streets, etc., regulated. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project out over any street or alley at a height of less than fourteen (14) feet or over any sidewalk at a height of less than eight (8) feet. (1976 Code, § 12-102)

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

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 driving vehicles on public streets or alleys from obtaining a clear view of traffic when approaching an intersection. (1976 Code, § 12-103)

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 (1976 Code, § 12-104)

16-105. Banners and signs across streets and alleys restricted.

It shall be unlawful for any person to place or have placed any banner or sign across any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1976 Code, § 12-105)

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 statute. (1976 Code, § 12-106)

16-107. Littering streets, alleys, or sidewalks prohibited. It shall be unlawful for any person to litter, place, throw, track, or allow to fall on any street, alley, or sidewalk any refuse, glass, tacks, mud, or other objects or materials which are unsightly or which obstruct or tend to limit or interfere with the use of such public ways and places for their intended purposes. (1976 Code, § 12-107)

16-108. Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right of way. (1976 Code, § 12-108)

16-109. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1976 Code, § 12-109)

¹Municipal code reference

Building code: title 12, chapter 1.

16-110. Parades: regulations and permits.

(1) Definitions. As used in this section, the following terms shall mean: (a) "Parade" is defined as any organized public procession or event, of any kind, of six (6) or more persons that is held on a street, roadway, sidewalk, alley, or other public place, held for the purposes of expressing First Amendment freedoms or for recreational purposes in the City of Henderson. A funeral procession does not constitute a parade for purposes of this section.

(b) "Chief of police" means the chief of police of the City of Henderson or his/her designees.

(c) "Person" means any person, firm, partnership, association, corporation, company or, organization of any kind.

(d) "Parade permit" means a permit as required by this Chapter.

(e) "Recreational purpose" means any march or process of any kind including, but not limited to, parades, bikeathons, k-runs, processions, marathons, marches, on-street block parties, fundraising events, or any other event, unrelated to the expression of the First Amendment freedoms, that has the potential to obstruction of traffic.

(f) "Responsible representative" means that individual who applies for a parade permit, as defined by this section, from the chief of police and takes personal responsibility for compliance with this statute.

(2) Permit required. It shall be unlawful for any person to hold a parade, as defined by this section, without a responsible representative first obtaining a proper Parade permit from the chief of police at least six (6) calendar days in advance. It shall be a civil offense for any person that knowingly organizes, engages in, participates in, aids, or commences a parade without first receiving a parade permit from the chief of police in full compliance with this statute.

(3) No permit required. No parade permit shall be required for the following:

(a) The armed forces of the United States of America, the military forces of the state, or the police and fire departments of the City of Henderson acting within the scope of their duties.

(b) Funeral processions.

(c) Sidewalk processions which observe and comply with traffic regulations and traffic control devices, utilizing that portion of a sidewalk nearest the street, but at no time more than one-half (1/2) of the sidewalk, otherwise a permit will be required.

(4) Issuance of permit. (a) No permit shall be granted that will cause an unreasonable interference with the normal use of the streets, highways, and public places of the City of Henderson.

(b) No permit will be issued that would cause any violence or breach of the peace by any person engaging in the parade or persons watching the same.

(5) Parade procedure. It shall be the responsibility of the responsible representative to conduct any permitted parade to comply with the following procedures:

(a) The responsible representative shall see to the immediate clearing up of all litter that may be left on the streets, sidewalks, or other public property as a result of the lawfully permitted parade. Furthermore, it shall be unlawful for the responsible representative to fail to carry out this duty, upon which permitting of all parades is condition, by failing to clean up any litter associated with the parade.

(b) Candy, gum, beads, paper, or any other articles shall not be thrown from any type of vehicle or by a parade participant during a parade. Persons who wish to distribute candy shall be permitted to have parade participants walk along the perimeter distributing their candies and keeping spectators at a safe distance. The officially designated "Santa Claus" for the annual City of Henderson Christmas Parade shall be explicitly excepted from this subsection and be permitted to distributed candy by throwing from a motor vehicle.

(c) Parade participants, spectators, and the public are prohibited from disembarking from or attempting to board a moving vehicle during a parade.

(d) Horse and horse drawn vehicles are permitted under the following conditions:

(i) All horses must be under control at all times.

(ii) Riders may not consume intoxicating beverages before or during the parade.

(iii) Each horse must have an individual who is identified and designated as being responsible for the horse.

(e) Vehicles of any kind shall be prohibited from exceeding ten (10) miles per hour while participating in a parade. Vehicles shall not be driven recklessly. Vehicles shall only use one (1) lane of the street and shall not cross from lane to lane. The chief of police may establish other conditions as deemed appropriate.

(f) There shall be no open display or consummation of intoxicating beverages on or in floats or vehicles taking part in the parade. No person operating a vehicle of any kind within the parade shall consume intoxicating beverages during or prior to the parade, nor may any person operating a vehicle be under the influence of alcohol or a controlled substance at any time during the parade.

(g) There shall be no obscene displays or displays that promote of violence or incite criminal conduct. No floats or vehicles shall include

any acts or language that is obscene, defamatory, promotes violence, or incites criminal conduct.

(6) Application requirements. The chief of police shall review and approve or deny all parade applications. Applications shall contain the following information:

- (a) The name, address, and telephone number of the applicant and/or of any other persons on whose behalf the application is made;
- (b) The name of the responsible person for the parade;
- (c) The parade purpose;
- (d) The date requested for the parade, and the proposed schedule of start and end times;
- (e) The specific route to be travel including the starting and terminating points;
- (f) The proposed placement of event staff and equipment on the right-of-way;
- (g) The estimated number of individual persons to participate in the parade;
- (h) The estimated number of motor vehicles, horses, and/or horse drawn vehicles expected to participate in the parade; and
- (i) A signed application ensuring that the applicant understands and agrees to the parade procedures.

(7) Denial of parade permit. The chief of police shall deny a permit to any application when:

- (a) The applicant fails to provide complete information on the application as required under this section.
- (b) The movement of the parade will conflict in time and location with another parade for which a permit has previously been granted or will interfere with the orderly flow of vehicular pedestrian traffic.
- (c) The parade could damage roadways or other facilities of the city.
- (d) If the application reveals that the parade staging, parade route, and parade disassembly requested will interfere with the orderly flow of vehicular or pedestrian traffic, the chief of police shall have authority to establish a reasonable alternative route and to regulate the width and duration of the parade.
- (e) Or for any other reason found to be a safety issue or if scheduling prohibits enough law enforcement officers to safely cover the parade.

(8) Revocation of permit. The chief of police shall revoke a permit when any of the following occurs:

- (a) The information contained in the application is found to be inaccurate in any material detail;

(b) The parade fails to begin within forty-five (45) minutes of the appointed times of commencement;

(c) The applicant materially misrepresents the number of participants;

(d) The chief of police has reasonable grounds to believe that the parade is being conducted in a manner that constitutes a danger to any person or property.

(9) Issuance or rejection of permit. Upon receipt of the parade application, the chief of police shall issue to the applicant, within three (3) calendar day of the application, either a parade permit or notification of denial of the parade permit. (1976 Code, § 12-110, as replaced by Ord. #538, May 2021 *Ch3_08-12-21*)

16-111. Railroad crossings. (1) All railway companies owning, operating, or using roadbeds and tracks which are within the corporate boundaries of the city shall now and in the future erect, maintain, and keep in a good state of repair automatic safety gates at all points within said corporate boundaries where said roadbeds and tracks cross over municipal streets and roadways. Such railway companies as are now affected hereby are granted a period of sixty (60) days from the effective date of the provisions in this section in which to install the same. Upon application to the board of mayor and aldermen prior to the expiration of such period, an additional period of sixty (60) days may be granted, provided the applicant provides proof that such installation has begun and the additional time is needed to complete the same.

(2) All railway companies using roadbeds or tracks intersecting or crossing any public street in the city shall be obliged to give timely warning of the approach of their trains by the ringing of a bell or, in the case of eminent danger, the sounding of a whistle.

(3) All grade crossings and rights of way shall be designed, graded, and maintained so as to provide ample visibility for pedestrians and traffic on the streets crossed by railroad tracks.

(4) By reason of switching or otherwise, vehicular traffic across the railway tracks shall not be impeded by railway trains for a period of time in excess of five (5) minutes.

(5) All railroads are required to erect and maintain suitable signs, visible by day and by night, and to place suitable markings at all grade crossings requiring all vehicles to come to a full stop before entering such grade crossings, and to look and to listen before proceeding across said tracks. Said signs shall be of such size and the lettering thereon of such a character and nature that the same can be seen, read, and understood at least one hundred (100) feet therefrom when facing the same. All vehicular traffic must observe and obey said signs. (1976 Code, § 12-111, modified)

16-112. 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. (1976 Code, § 12-112)

16-113. 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. (1976 Code, § 12-113)

16-114. Street names. All of the streets, lanes, roads, thoroughfares, avenues, and alleys inside the corporate limits of the City of Henderson are hereby named in accordance with the map entitled "Henderson, Tennessee - Street Name and Property Numbering System, 1971," which is on file in the recorder's office. (1976 Code, § 12-114)

16-115. House and building numbers. (1) Uniform numbering system. A uniform system of numbering houses and buildings, as shown on the map, identified by the title "Henderson, Tennessee - Street Name and Property Numbering System, 1971" as amended, which is on file in the office of the recorder, is hereby adopted for use in the City of Henderson. This map, and all explanatory matter thereon, is hereby adopted and made a part of this section. On certain streets and in certain areas, the board of aldermen have given numbering responsibilities to the Chester County 911 System for assignment and maintenance of the numbering system in order to conform to the countywide system.

(2) City of Henderson system-assignment of numbers. All houses and buildings within the corporate limits of Henderson, except the streets and areas assigned to the Chester County 911 System, shall hereafter be identified by reference to the official numbering system. A separate number shall be assigned for each 25 feet of frontage. Vacant lots will not be assigned numbers until building foundations are completed and entrances can be determined.

(3) Numbers shall be posted. Numerals indicating the official number for each principal building or each front entrance to such building shall be posted in such a manner as to be visible from the street on which the property is located. Numerals shall be at least three inches high and made of reflective material.

(4) Administration. (a) The building official and/or city recorder shall be responsible for maintaining and assigning the official numbers of the City of Henderson. In the performance of this responsibility he shall be guided by the provisions of subsection (2).

(b) The city recorder shall keep a record of all numbers assigned under this section.

16-116. No basketball goals on right-of-way. (1) No portable or fixed basketball goal or any other athletic equipment shall be placed, erected, or maintained on or alongside the right-of-way of any public street within the municipal limits of the City of Henderson so as to allow a person or persons to play within the street. The placement of any basketball goal or other athletic equipment within the right-of-way or the presence of persons within a public street playing basketball or other sport on such a goal shall be a violation of this section.

(2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50.00). (as added by Ord. #411, Nov. 2005)

CHAPTER 2

EXCAVATIONS¹

SECTION

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Manner of excavating--barricades and lights--temporary sidewalks.
- 16-205. Backfilling and restoration of streets, curbs and gutters, sidewalks, etc.
- 16-206. Insurance.
- 16-207. Time limits.
- 16-208. Supervision.
- 16-209. Driveway curb cuts and driveway connections.

16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the recorder is open for business and said permit shall be retroactive to the date when the work was begun. (1976 Code, § 12-201)

16-202. Applications. Applications for such permits shall be made to the recorder or such person as he may designate to receive such applications, and shall state thereon the location of the intended excavation or tunnel, the size thereof, the purpose thereof, the person, firm, corporation, association, or others doing the actual excavating, the name of the person, firm, corporation, association, or others for whom the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws relating

¹State law reference

This chapter was patterned substantially after the ordinance upheld by the Tennessee Supreme Court in the case of City of Paris, Tennessee v. Paris-Henry County Public Utility District, 207 Tenn. 388, 340 S.W.2d 885 (1960).

to the work to be done. Such application shall be rejected or approved by the recorder within twenty-four (24) hours of its filing. (1976 Code, § 12-202)

16-203. Fee. The fee for such permits shall be one hundred dollars (\$100.00) for excavations which do not exceed fifty (50) square feet in area or tunnels not exceeding fifty (50) feet in length; and two dollars (\$2.00) for each additional square foot in the case of excavations, or lineal foot in the case of tunnels. (1976 Code, § 12-203, as amended by Ord. #293, Jan. 1996)

16-204. Manner of excavating--barricades and lights--temporary sidewalks. Any person, firm, corporation, association, or others making any excavation or tunnel shall do so according to the terms and conditions of the application and permit authorizing the work to be done. Sufficient and proper barricades and lights shall be maintained to protect persons and property from injury by or because of the excavation being made. If any sidewalk is blocked by any such work a temporary sidewalk shall be constructed and provided which shall be safe for travel and convenient for users. (1976 Code, § 12-205)

16-205. Backfilling and restoration of streets, curbs and gutters, sidewalks, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley or public place in this city shall restore said street, alley or public place to its original condition except for the surfacing, which shall be done by the city. Any person, firm, corporation, association or others causing any damage or removal of any curb, gutter or sidewalk will be responsible for replacing the damaged curb, gutter or sidewalk.

All excavations or tunnels shall be backfilled from bottom to top with dry compacted 33C white gravel and left in a smooth condition. The only exception to this is that any water, sewer, natural gas or drainage pipe may be bedded in dry compacted sand but only up to 6 to 8 inches above the top of the pipe. No dirt, mud or material other than dry sand or 33C white gravel can be used as backfilling material.

In case of unreasonable delay in restoring the street, alley, or public place, the street superintendent shall give notice to the person, firm, corporation, association or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the city will do the work and charge the expense of doing the same to such person, firm, corporation, association or others. If within the specified time the conditions of the above notice have not been complied with, the work shall be done by the city, an accurate account of the expense involved shall be kept, and the total cost shall be charged to the person, firm, corporation, association, or others who made the excavation or tunnel. (1976 Code, § 12-206, as amended by Ord. #293, Jan. 1996)

16-206. Insurance. In addition to making the deposit or giving the bond hereinbefore required to insure that proper restoration is made, each person

applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than \$100,000 for each person and \$300,000 for each accident, and for property damages not less than \$25,000 for any one (1) accident, and a \$75,000 aggregate. (1976 Code, § 12-207)

16-207. Time limits. Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or pavement, or until the refill is made ready for the pavement to be put on by the city if the city restores such surface pavement. It shall be unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the recorder. (1976 Code, § 12-208)

16-208. Supervision. The street superintendent 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. (1976 Code, § 12-209)

16-209. Driveway curb cuts and driveway connections. No one shall cut, build, or maintain a driveway across a curb or sidewalk or connect a driveway to a street without first obtaining permission from the public works director. All plans for driveway connections to city streets will have to be approved by the public works director prior to being constructed. Only corrugated metal culverts, concrete culverts or smooth bore polyethylene culverts shall be used for driveway connections. Polyethylene pipe will only be allowed if enough cover can be provided over the top of pipe meeting manufacturer's specifications. The property owner is responsible for buying all necessary culverts. The public works director will approve the size of all drainage pipes including driveway connections and stormwater drains but in no case shall any pipe be less than twelve inches (12") in diameter except in unusual circumstances. The city will install one (1) twenty four foot (24') section of pipe and the necessary gravel for a driveway connection. If additional pipes are requested in the approval plan by the property owner, the city may install

them but all cost for culverts, catch basins, storm drains, gravel, etc. will be paid by the property owner.

Permission for the driveway connection plan will not be issued when the contemplated driveway including additional pipes is to be so located or constructed as to create an unreasonable hazard to pedestrian and/or vehicular traffic or will disrupt or restrict the natural flow of water. No driveway connection will be approved that does not conform to the regulations of the Henderson Zoning Ordinance. No driveway shall exceed thirty feet (30') in width at its outer or street edge and when two (2) or more adjoining driveways are provided for the same property a safety island of not less than ten feet (10') in width at its outer or street edge shall be provided. Driveway aprons shall not extend out into the street. (1976 Code, § 12-210, as amended by Ord. #272, Sept. 1994, and replaced by Ord. #412, March 2006)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

- 17-101. Refuse defined.
- 17-102. Premises to be kept clean.
- 17-103. Storage.
- 17-104. Location of refuse containers.
- 17-105. Disturbing containers.
- 17-106. Collection.
- 17-107. Collection vehicles.
- 17-108. Disposal.
- 17-109. Service fees for collection, removal and disposal of refuse.
- 17-110. Adjustment of overcharged customers.
- 17-111. Minimum fees.
- 17-112. Special collection services.
- 17-113. Billing of service fees.
- 17-114. Implementing authority of the sanitation superintendent.
- 17-115. Violations.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith. (1976 Code, § 8-201)

17-102. Premises to be kept clean. All persons within the city are required to keep their premises in a clean and sanitary condition, free from accumulations of refuse except when stored as provided in this chapter. (1976 Code, § 8-202)

17-103. Storage. Each owner, occupant, or other responsible person using or occupying any building or other premises within the City of Henderson

¹Municipal code reference

Property maintenance regulations: title 13.

where refuse accumulates or is likely to accumulate, shall provide and keep covered an adequate number of refuse containers. The refuse containers shall be strong, durable, and rodent and insect proof. They shall each have a capacity of not less than twenty (20) nor more than thirty-two (32) gallons, except that this maximum capacity shall not apply to larger containers which the city handles mechanically. Furthermore, except for containers which the city handles mechanically, the combined weight of any refuse container and its contents shall not exceed seventy-five (75) pounds. No refuse shall be placed in a refuse container until such refuse has been drained of all free liquids. Tree trimmings, hedge clippings, and similar materials shall be cut to a length not to exceed four (4) feet and shall be securely tied in individual bundles weighing not more than seventy-five (75) pounds each and being not more than two (2) feet thick before being deposited for collection. (1976 Code, § 8-203)

17-104. Location of refuse containers. In areas of the city where streets are used by the city refuse collectors, containers shall be placed adjacent to and back of the curb, or adjacent to and back of the ditch or street line if there is no ditch, at such times as shall be scheduled by the city for collection of refuse. Where alleys are used by the city refuse collectors, containers shall be placed on or within six feet (6') of the alley. The containers shall not be placed at the street edge any earlier than 6:00 P.M. the night before the scheduled pickup and shall be removed from the street edge as soon as practicable after refuse collection but always within twelve (12) hours after refuse collection. No crate, container, box or other items shall remain at the street edge between pickups. In residential areas, when not being placed out for pickup; refuse containers shall be stored at the rear of each residence or structure. The public works director shall work with each commercial refuse customer to determine if the city can provide refuse service based on waste volume and pickup frequency. The public works director shall work with the business to determine the proper location for refuse containers for pickup by city crews. If the city is unable to provide refuse pickup to any commercial customer, the commercial business will have to contract with a private hauler to provide the service. For both residential and commercial customers, if refuse containers and/or dumpsters are stored in any location visible for a public street, they shall be shielded from view by a fence or other structure. (1976 Code, § 8-204, as replaced by Ord. #503, July 2017 *Ch3_08-12-21*)

17-105. Disturbing containers. No unauthorized person shall uncover, rifle, pilfer, dig into, turn over, or in any other manner disturb or use any refuse container belonging to another. This section shall not be construed to prohibit the use of public refuse containers for their intended purpose. (1976 Code, § 8-205)

17-106. Collection. All refuse accumulated within the corporate limits shall be collected, conveyed, and disposed of under the supervision of such officer as the board of mayor and aldermen shall designate. Collections shall be made regularly in accordance with an announced schedule. (1976 Code, § 8-206)

17-107. Collection vehicles. The collection of refuse shall be by means of vehicles with beds constructed of impervious materials which are easily cleanable and so constructed that there will be no leakage of liquids draining from the refuse onto the streets and alleys. Furthermore, all refuse collection vehicles shall utilize closed beds or such coverings as will effectively prevent the scattering of refuse over the streets or alleys. (1976 Code, § 8-207)

17-108. Disposal. The disposal of refuse in any quantity by any person in any place, public or private, other than at the site or sites designated for refuse disposal by the board of mayor and aldermen is expressly prohibited. (1976 Code, § 8-208)

17-109. Service fees for collection, removal and disposal of refuse. The following monthly fees are established for the collection, removal and disposal of refuse:

Class 2 Residential units, including single family dwellings, mobile homes, duplex, triplex, and quadruplex, for each unit thereof: \$ 17.50

Commercial businesses and other non-residential purposes:

| <u>CLASS</u> | <u>WEEKLY PICKUP MINUTES</u> | <u>MONTHLY FEE</u> |
|--------------|------------------------------|--------------------|
| 3 | 0 to 1.00 | \$ 17.50 |
| 4 | 1.01 to 1.50 | \$ 21.83 |
| 5 | 1.51 to 2.00 | \$ 27.22 |
| 6 | 2.00 to 2.50 | \$ 32.62 |
| 7 | 2.51 to 3.00 | \$ 38.01 |
| 8 | 3.01 to 3.50 | \$ 43.40 |
| 9 | 3.51 to 4.00 | \$ 48.79 |
| 10 | 4.00 to 4.50 | \$ 54.19 |
| 11 | 4.51 to 5.00 | \$ 59.58 |
| 12 | 5.01 to 6.00 | \$ 70.36 |
| 13 | 6.01 to 7.00 | \$ 81.15 |
| 14 | 7.01 to 8.00 | \$ 91.93 |
| 15 | 8.01 to 9.00 | \$102.74 |
| 16 | 9.01 to 10.00 | \$113.52 |
| 17 | 10.01 to 11.00 | \$124.31 |
| 18 | 11.01 to 12.00 | \$135.09 |
| 19 | 12.01 to 13.00 | \$145.88 |
| 20 | 13.01 to 14.00 | \$156.66 |

| | | | | |
|-----|-------|----------------|-------|--|
| 21 | ----- | 14.01 to 15.00 | ----- | \$167.45 |
| 22 | ----- | 15.01 to 16.00 | ----- | \$178.23 |
| 23 | ----- | 16.01 to 17.00 | ----- | \$189.02 |
| 24 | ----- | 17.01 to 18.00 | ----- | \$199.80 |
| 25 | ----- | 18.01 to 19.00 | ----- | \$210.60 |
| 26 | ----- | 19.01 to 20.00 | ----- | \$221.38 |
| 27 | ----- | 20.01 to 21.00 | ----- | \$232.17 |
| 28 | ----- | 21.01 to 22.00 | ----- | \$242.95 |
| 29 | ----- | 22.01 to 23.00 | ----- | \$253.74 |
| 30 | ----- | 23.01 to 24.00 | ----- | \$264.52 |
| 31 | ----- | 24.01 to 25.00 | ----- | \$275.31 |
| 32 | ----- | 25.01 to 26.00 | ----- | \$286.09 |
| 33* | ----- | 26.01 to 27.00 | ----- | \$296.88 |
| 34 | ----- | 27.01 to 28.00 | ----- | \$307.68 |
| 35 | ----- | 28.01 to 29.00 | ----- | \$318.47 |
| 36 | ----- | 29.01 to 30.00 | ----- | \$329.25 |
| 37 | ----- | 30.01 to 31.00 | ----- | \$340.04 |
| 38 | ----- | 31.01 to 32.00 | ----- | \$350.82 |
| 39 | ----- | 32.01 to 33.00 | ----- | \$361.61 |
| 40 | ----- | 33.01 to 34.00 | ----- | \$372.39 |
| 41 | ----- | 34.01 to 35.00 | ----- | \$383.18 |
| 42 | ----- | 35.01 to 36.00 | ----- | \$393.96 |
| 43 | ----- | 36.01 to 37.00 | ----- | \$404.76 |
| 44 | ----- | 37.01 to 38.00 | ----- | \$415.54 |
| 45 | ----- | 38.01 to 39.00 | ----- | \$426.33 |
| 46 | ----- | 39.01 to 40.00 | ----- | \$437.11 |
| 47 | ----- | 40.01 to 41.00 | ----- | \$447.90 |
| 48 | ----- | 41.01 to 42.00 | ----- | \$458.68 |
| 49 | ----- | 42.01 to 43.00 | ----- | \$469.47 |
| 50 | ----- | 43.01 to 44.00 | ----- | \$480.25 |
| 99 | ----- | Over 44.00 | ----- | \$480.25 plus \$10.00 for each additional minute. |

The public works director shall cause each commercial establishment to be placed in a particular class based upon average collections per week. The public works director from time to time may change the classification of a commercial establishment from one class to another. The decision of the public works director shall be final. (1976 Code, § 8-210, as amended by Ord. #266, June 1993, Ord. #277, July 1994, and Ord. #307, June 1997, and replaced by Ord. #359, June 2001, Ord. #405, June 2005, Ord. #413, July 2006, Ord. #446, June 2009, Ord. #503, July 2017 *Ch3_08-12-21*, and Ord. #522, May 2019 *Ch3_08-12-21*)

17-110. Adjustment of overcharged customers. The public works director and the mayor are authorized to adjust previously charged sanitation fees if a mistake was made either in the classification of a commercial business,

an incorrect pickup time study or if duplicate charges were issued to a single customer location due to numerous water and/or gas accounts. Adjustments shall be made as a credit to the utility account if the customer is still in service. If the customer is no longer in service, a refund may be authorized. All adjustments shall be made in writing and shall be signed by both the public works director and the mayor. (Ord. #307, June 1997)

17-111. Minimum fees. Nothing in this chapter shall prevent any refuse producer from collecting, removing, and disposing of his own refuse, provided he does so in a manner as not to create a nuisance. In the event that any refuse producer described in § 17-109 above shall elect to forego the refuse collection services of the City of Henderson, Tennessee, then in that event, each refuse producer shall be liable for the minimum fee set forth above. (1976 Code, § 8-211)

17-112. Special collection services. The public works director may provide other collection and removal services to meet unusual circumstances and conditions, in accordance with the regulations and fees approved by him. (1976 Code, § 8-212, modified)

17-113. Billing of service fees. The service fee for collection, removal, disposal of refuse by the city shall be included as a separate item each month on the bills rendered by the city for utility service. Said charges shall be rendered on the first utility bill sent on or after May 12, 1988, and for each month thereafter. The accounts shall be paid at the same time utility bills are paid.

Utility service shall be discontinued for failure to pay the refuse service fee by the delinquency date prescribed for the utility bill.

In the case of premises containing more than one dwelling unit or place of business, and each is billed separately for utility service by the city, such fee shall be billed to each person in possession, charge, or control who is a utility customer of the city. In the case of premises containing more than one dwelling unit or place of business which are served through a single meter, so that the occupants or tenants cannot be billed separately by the city, the customer responsible for the utility bill shall be liable for the refuse service fees for the premises. (1976 Code, § 8-213)

17-114. Implementing authority of the sanitation superintendent. The collection, removal and disposal of refuse from premises in the city shall be under the supervision and control of the public works director. He shall recommend to the governing body such reasonable rules and regulations, not inconsistent with the provisions of this chapter, as he deems to be necessary or desirable, which shall become effective when approved by resolution of the governing body. (1976 Code, § 8-214, modified)

17-115. Violations. Any person violating or failing to comply with any provision of this chapter or any lawful regulation of the public works director shall be subject to a penalty of not more than five hundred dollars (\$500.00) for each offense and each day of such violation shall be deemed a separate offense. (1976 Code, § 8-215, modified)

TITLE 18**WATER AND SEWERS¹****CHAPTER**

1. WATER AND SEWERS.
2. GENERAL WASTEWATER REGULATIONS.
3. INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS.
4. SEWAGE AND HUMAN EXCRETA DISPOSAL.
5. CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.
6. GREASE REMOVAL AND GREASE INTERCEPTOR REQUIREMENTS.

CHAPTER 1**WATER AND SEWERS****SECTION**

- 18-101. Application and scope.
- 18-102. Definitions.
- 18-103. Obtaining service.
- 18-104. Application and contract for service.
- 18-105. Service charges for temporary service.
- 18-106. Water and sewer combination tap/capacity and meter fees.
- 18-107. Service charges and deposits.
- 18-108. Water and sewer main extensions.
- 18-109. Water and sewer main extension variances.
- 18-110. Meters.
- 18-111. Meter tests.
- 18-112. Multiple services through a single meter.
- 18-113. Billing.
- 18-114. Discontinuance or refusal of service.
- 18-115. Re-connection charges.
- 18-116. Termination of service by customer.
- 18-117. Access to customers' premises.
- 18-118. Inspections.
- 18-119. Customer's responsibility for system's property.
- 18-120. Customer's responsibility for violations.
- 18-121. Supply and resale of water.
- 18-122. Unauthorized use of or interference with water supply.

¹Municipal code references

Building, utility and housing codes: title 12.

Refuse disposal: title 17.

- 18-123. Limited use of unmetered private fire line.
- 18-124. Damages to property due to water pressure.
- 18-125. Liability for cutoff failures.
- 18-126. Restricted use of water.
- 18-127. Interruption of service.
- 18-128. Schedule of rates.
- 18-129. Fluoridation of water.
- 18-130. Water and sewer adjustments.
- 18-131. User charge system for wastewater treatment facilities.

18-101. Application and scope. The provisions of this chapter are a part of all contracts for receiving water and/or sewer service from the city and shall apply whether the service is based upon contract, agreement, signed application, or otherwise. (1976 Code, § 13-101)

18-102. Definitions. (1) "Customer" means any person, firm, or corporation who receives water and/or sewer service from the city under either an express or implied contract.

(2) "Household" means any two (2) or more persons living together as a family group.

(3) "Service line" shall consist of the pipe line extending from any water or sewer main of the city to private property. Where a meter and meter box are located on private property, the service line shall be construed to include the pipe line extending from the city's water main to and including the meter and meter box.

(4) "Discount date" shall mean the date ten (10) days after the date of a bill, except when some other date is provided by contract. The discount date is the last date upon which water and/or sewer bills can be paid at net rates.

(5) "Dwelling" means any single structure, with auxiliary buildings, occupied by one or more persons or households for residential purposes.

(6) "Premises" means any structure or group of structures operated as a single business or enterprise, provided, however, the term "premise" shall not include more than one (1) dwelling. (1976 Code, § 13-102)

18-103. Obtaining service. A formal application for either original or additional service must be made and be approved by the city before connection or meter installation orders will be issued and work performed. (1976 Code, § 13-103)

18-104. Application and contract for service. Each prospective customer desiring water and/or sewer service will be required to sign a standard form of contract before service is supplied. If, for any reason, a customer, after signing a contract for service, does not take such service by reason of not

occupying the premises or otherwise, he shall reimburse the city for the expense incurred by reason of its endeavor to furnish said service.

The receipt of a prospective customers application for service, regardless of whether or not accompanied by a service charge, shall not obligate the city to render the service applied for. If the service applied for cannot be supplied in accordance with the provisions of this chapter and general practice, the liabilities of the city to the applicant shall be limited to the return of any service charge made by such applicant. (1976 Code, § 13-104)

18-105. Service charges for temporary service. Customers requiring temporary service shall pay all costs for connection and disconnection incidental to the supplying and removing of service in addition to the regular charge for water and/or sewer service. (1976 Code, § 13-105)

18-106. Water and sewer combination tap/capacity fees. (1) Each person, firm or organization desiring or required to connect to the water and sewer mains of the city shall first obtain a written permit from the utility department and pay the tap/capacity fees and meter fees therefore which are hereby fixed and established as follows:

| <u>Water Tap/Capacity Fees:</u> | <u>Inside City</u> | <u>Outside City</u> |
|---|------------------------|---------------------|
| For each water tap (3/4") | \$ 800.00 | \$ 900.00 |
| For each water tap (1") | \$ 900.00 | \$1,025.00 |
| For each water tap (2") | \$1,200.00 | \$1,325.00 |
| All water taps over 2" | Based on Cost Estimate | |
| In addition to the above fee, all sprinkler system connections for fire control shall pay a monthly charge (per tap) of | \$ 15.00 | \$ 30.00 |

| <u>Sewer Tap/Capacity Fees:</u> | <u>Inside City</u> | <u>Outside City</u> |
|---------------------------------|--------------------|---------------------|
| Sewer taps of all sizes | \$1,000.00 | \$1,500.00 |

All fees shall be paid in full prior to work being performed.

(2) Water taps shall be made at the discretion of the city. Water taps shall be made by city forces or by the city's contractor. All water service lines from the main to the meter box (including the meter, the cut off and the meter box) shall become and remain the property of the city. All repairs, replacement and maintenance of said line shall be the responsibility of the city except when damaged by misuse, carelessness, or vandalism. The repair of any water service line from the main to the meter box (including the meter, the cut off and the

meter box) damaged due to misuse, carelessness, or vandalism shall be the responsibility of the owner of the property. All repairs shall be performed at the discretion or insistence of the city. All sections of a water line from but not including the meter to the premises served shall be installed and all repairs and replacements made by and at the cost of the owner of such property to be served or by the applicant for such service. All water taps and service lines shall be inspected and approved by authorized personnel of the city prior to being backfilled.

(3) Sewer taps will not be made by city forces. Owner/developer is responsible for making the connection to the city sewer main. All sewer service lines from the main to the premises served shall be installed and all repairs made by and at the cost of the owner of such property being served or by the applicant for such service. All sewer taps and service lines shall be inspected and approved by authorized personnel of the city prior to being backfilled.

(4) No service shall be installed unless it conforms to specifications established and adopted by the utility department from time to time hereafter. It shall be the responsibility of each owner or applicant to acquaint himself with all pertinent rules and regulations before commencing the work.

(5) No utility service line including water, sewer and natural gas shall be installed in the same trench with any other utility line including but not limited to water, sewer and natural gas. (1976 Code, § 13-106, as replaced by Ord. #392, May 2004, Ord. #404, June 2005, Ord. #435, Oct. 2008, and Ord. #543, Aug. 2021 *Ch3_08-12-21*)

18-107. Service charges and deposits. (1) A nonreturnable service charge will be charged on each utility service turned on in the amount of fifty dollars (\$50.00). The same charge will apply whether the service is water only, sewer only, gas only, sanitation only or any combination of the services listed.

(2) In addition to the service charges in (1), a refundable deposit shall be collected

- (a) From each residential rental customer,
- (b) From all commercial/industrial customers and
- (c) From any customer, including a residential homeowner

that has been disconnected due to non-payment of any utility account. The deposit for a residential homeowner that has been disconnected due to non-payment may be waived by the utility director or his/her designate if the customer has not been disconnected for non-payment within the past twenty-four (24) months. The amount of the deposit for all customers shall be seventy-five dollars (\$75.00) whether the service is water and sewer, water only or sewer only. This deposit shall be refunded to the customer only after all amounts due the utility department are paid in full.

Service installation for an old customer at a new location or at the same location after being terminated for non-payment will be handled as a new customer and said customer will be charged the service charges and deposits set

forth above. (1976 Code, § 13-107, as amended by Ord. #384, Sept. 2003, and Ord. #385, Oct. 2003, and replaced by Ord. #408, Sept. 2005, and Ord. #507, March 2018 *Ch3_08-12-21*)

18-108. Water and sewer main extensions.¹ Persons desiring water and/or sewer main extensions must pay all of the cost of making such extensions.

For water main extensions cement-lined cast iron pipe, class 150 American Waterworks Association Standard (or other construction approved by the board of mayor and aldermen), not less than six (6) inches in diameter shall be used to the dead end of any line and to form loops or continuous lines, so that fire hydrants may be placed on such lines at locations no farther than 1,000 feet from the most distant part of any dwelling structure and no farther than 600 feet from the most distant part of any commercial, industrial, or public building, such measurements to be based on road or street distances; cement-lined cast iron pipe (or other construction approved by the board of mayor and aldermen) two (2) inches in diameter, to supply dwellings only, may be used to supplement such lines. For sewer main extensions eight-inch pipe of vitrified clay or other construction approved by the board shall be used.

All such extensions shall be installed either by city forces or by other forces working directly under the supervision of the city in accordance with plans and specifications prepared by an engineer registered with the State of Tennessee.

Upon completion of such extensions and their approval by the city, such water and/or sewer mains shall become the property of the city. The persons paying the cost of constructing such mains shall execute any written instruments requested by the city to provide evidence of the city's title to such mains. In consideration of such mains being transferred to it, the city shall incorporate said mains as an integral part of the city water and sewer systems and shall furnish water and sewer service therefrom in accordance with these rules and regulations, subject always to such limitations as may exist because of the size and elevation of the mains. (1976 Code, § 13-108)

18-109. Water and sewer main extension variances. Whenever the board of mayor and aldermen is of the opinion that it is to the best interest of the city and its inhabitants to construct a water and/or sewer main extension without requiring strict compliance with the preceding section, such extension may be constructed upon such terms and conditions as shall be approved by the board.

¹Municipal code reference

Construction of building sewers: title 18, chapter 2.

The authority to make water and/or sewer main extensions under the preceding section is permissive only and nothing contained therein shall be construed as requiring the city to make such extensions or to furnish service to any person or persons. (1976 Code, § 13-109)

18-110. Meters. All meters shall be installed, tested, repaired, and removed only by the city.

No one shall do anything which will in any way interfere with or prevent the operation of a meter. No one shall tamper with or work on a water meter without the written permission of the city. No one shall install any pipe or other device which will cause water to pass through or around a meter without the passage of such water being registered fully by the meter. (1976 Code, § 13-110)

18-111. Meter tests. The city will, at its own expense, make routine tests of meters when it considers such tests desirable.

In testing meters, the water passing through a meter will be weighed or measured at various rates of discharge and under varying pressures. To be considered accurate, the meter registration shall check with the weighed or measured amounts of water within the percentage shown in the following table:

| <u>Meter Size</u> | <u>Percentage</u> |
|--------------------|-------------------|
| 5/8", 3/4", 1", 2" | 2% |
| 3" | 3% |
| 4" | 4% |
| 6" | 5% |

The city will also make tests or inspections of its meters at the request of the customer. However, if a test requested by a customer shows a meter to be accurate within the limits stated above, the customer shall pay a meter testing charge in the amount stated in the following table:

| <u>Meter Size</u> | <u>Test Charge</u> |
|-------------------|--------------------|
| 5/8", 3/4", 1" | \$ 20.00 |
| 1-1/2", 2" | 30.00 |
| 3" | 40.00 |
| 4" | 50.00 |
| 6" & over | 60.00 |

If such test shows a meter not to be accurate within such limits, the cost of such meter test shall be borne by the city. (1976 Code, § 13-111, modified)

18-112. Multiple services through a single meter. No customer shall supply water or sewer service to more than one dwelling or premise from a

single service line and meter without first obtaining the written permission of the city.

Where the city allows more than one dwelling or premise to be served through a single service line and meter, the amount of water used by all the dwellings and premises served through a single service line and meter shall be allocated to each separate dwelling or premise served. The water and/or sewer charges for each such dwelling or premise thus served shall be computed just as if each such dwelling or premise had received through a separately metered service the amount of water so allocated to it, such computation to be made at the city's applicable water rates schedule, including the provisions as to minimum bills. The separate charges for each dwelling or premise served through a single service line and meter shall then be added together, and the sum thereof shall be billed to the customer in whose name the service is supplied. (1976 Code, § 13-113)

18-113. Billing. Bills for residential water and sewer service will be rendered monthly. Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly at the option of the city.

Charges for utility service(s) shall be collected as a unit; no employee shall accept payment for any service without receiving at the same time payment for all services owed by the customer to the city. All services shall be discontinued for non-payment of the combined bill.

Utility bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if water is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available.

Detailed "utility billing/collection policies and procedures" shall be approved by the board of mayor and aldermen by resolution from time to time. (1976 Code, § 13-114, as replaced by Ord. #507, March 2018 *Ch3_08-12-21*)

18-114. Discontinuance or refusal of service. The city shall have the right to discontinue water and/or sewer service or to refuse to connect service for a violation of, or a failure to comply with, any of the following:

- (1) These rules and regulations.
- (2) The customer's application for service.
- (3) The customer's contract for service.

Such right to discontinue service shall apply to all service received through a single connection or service, even though more than one (1) customer or tenant is furnished services therefrom, and even though the delinquency or violation is limited to only one such customer or tenant.

Discontinuance of service by the city for any cause stated in these rules and regulations shall not release the customer from liability for service already received or from liability for payments that thereafter become due under other provisions of the customer's contract. (1976 Code, § 13-115)

18-115. Re-connection charges. Whenever water/sewer and/or natural gas service has been discontinued for non-payment, a reconnection charge of fifty dollars (\$50.00) shall be collected by the city before service is restored. The reconnection fee shall be waived for customers who qualify for utility payment assistance through the Helping Hands Program. (1976 Code, § 13-116, modified, as replaced by Ord. #444, April 2009)

18-116. Termination of service by customer. Customers who have fulfilled their contract terms and wish to discontinue service must give at least three (3) days written notice to that effect unless the contract specifies otherwise. Notice to discontinue service prior to the expiration of a contract term will not relieve the customer from any minimum or guaranteed payment under such contract or applicable rate schedule.

When service is being furnished to an occupant of premises under a contract not in the occupant's name, the city reserves the right to impose the following conditions on the right of the customer to discontinue service under such a contract:

(1) Written notice of the customer's desire for such service to be discontinued may be required; and the city shall have the right to continue such service for a period of not to exceed ten (10) days after receipt of such written notice, during which time the customer shall be responsible for all charges for such service. If the city should continue service after such ten (10) day period subsequent to the receipt of the customer's written notice to discontinue service, the customer shall not be responsible for charges for any service furnished after the expiration of the ten (10) day period.

(2) During the ten (10) day period, or thereafter, the occupant of premises to which service has been ordered discontinued by a customer other than such occupant, may be allowed by the city to enter into a contract for service in the occupant's own name upon the occupant's complying with these rules and regulations with respect to a new application for service. (1976 Code, § 13-117)

18-117. Access to customers' premises. The city's identified representatives and employees shall be granted access to all customers' premises at all reasonable times for the purpose of reading meters, for testing, inspecting, repairing, removing, and replacing all equipment belonging to the city, and for inspecting customers' plumbing and premises generally in order to secure compliance with these rules and regulations. (1976 Code, § 13-118)

18-118. Inspections. The city shall have the right, but shall not be obligated, to inspect any installation or plumbing system before water and/or sewer service is furnished or at any later time. The city reserves the right to refuse service or to discontinue service to any premises not meeting standards fixed by city ordinances regulating building and plumbing, or not in accordance with any special contract, these rules and regulations, or other requirements of the city.

Any failure to inspect or reject a customer's installation or plumbing system shall not render the city liable or responsible for any loss or damage which might have been avoided, had such inspection or rejection been made. (1976 Code, § 13-119)

18-119. Customer's responsibility for system's property. Except as herein elsewhere expressly provided, all meters, service connections, and other equipment furnished by or for the city shall be and remain the property of the city. Each customer shall provide space for and exercise proper care to protect the property of the city on his premises. In the event of loss or damage to such property, arising from the neglect of a customer to care for same, the cost of necessary repairs or replacements shall be paid by the customer. (1976 Code, § 13-120)

18-120. Customer's responsibility for violations. Where the city furnishes water and/or sewer service to a customer, such customer shall be responsible for all violations of these rules and regulations which occur on the premises so served. Personal participation by the customer in any such violations shall not be necessary to impose such personal responsibility on him. (1976 Code, § 13-121)

18-121. Supply and resale of water. All water shall be supplied within the city exclusively by the city and no customer shall, directly or indirectly, sell, sublet, assign, or otherwise dispose of the water or any part thereof, except with written permission from the city. (1976 Code, § 13-122)

18-122. Unauthorized use of or interference with water supply. No person shall turn on or turn off any of the city's stop cocks, valves, hydrants, spigots, or fire plugs without permission or authority from the city. (1976 Code, § 13-123)

18-123. Limited use of unmetered private fire line. Where a private fire line is not metered, no water shall be used from such line or from any fire hydrant thereon, except to fight fire or except when being inspected in the presence of an authorized agent of the city.

All private fire hydrants shall be sealed by the city, and shall be inspected at regular intervals to see that they are in proper condition and that no water

is being used therefrom in violation of these rules and regulations. When the seal is broken on account of fire, or for any other reason, the customer taking such service shall immediately give the city a written notice of such occurrence. (1976 Code, § 13-124)

18-124. Damages to property due to water pressure. The city shall not be liable to any customer for damages caused to his plumbing or property by high pressure, low pressure, or fluctuations in pressure in the city's water mains. (1976 Code, § 13-125)

18-125. Liability for cutoff failures. The city's liability shall be limited to the forfeiture of the right to charge a customer for water that is not used but is received from a service line under any of the following circumstances:

(1) After receipt of at least ten (10) days' written notice to cut off water service, the city has failed to cut off such service.

(2) The city has attempted to cut off a service but such service has not been completely cut off.

(3) The city has completely cut off a service, but subsequently, the cutoff develops a leak or is turned on again so that water enters the customer's pipes from the city's main.

Except to the extent stated above, the city shall not be liable for any loss or damage resulting from cutoff failures. If a customer wishes to avoid possible damage for cutoff failures, the customer shall rely exclusively on privately owned cutoffs and not on the city's cutoff. Also the customer (and not the city) shall be responsible for seeing that his plumbing is properly drained and is kept properly drained, after his water service has been cut off. (1976 Code, § 13-126)

18-126. Restricted use of water. In times of emergencies or in times of water shortage, the city reserves the right to restrict the purposes for which water may be used by a customer and the amount of water which a customer may use. (1976 Code, § 13-127)

18-127. Interruption of service. The city will endeavor to furnish continuous water and sewer service, but does not guarantee to the customer any fixed pressure or continuous service. The city shall not be liable for any damage for any interruption of service whatsoever.

In connection with the operation, maintenance, repair, and extension of the city water and sewer systems, the water supply may be shut off without notice when necessary or desirable and each customer must be prepared for such emergencies. The city shall not be liable for any damage from such interruption of service or for damages from the resumption of service without notice after any such interruption. (1976 Code, § 13-128)

18-128. Schedule of rates.¹ (1) The rates to be charged each residential user or consumer of water per month using meters inside the corporate bounds shall be as follows:

For the first 2,000 gallons of water or less.....\$ 11.73 (Net)

All over 2,000 gallons of water, add \$ 2.94 per 1,000 gallons.

When two (2) or more houses, buildings, apartment houses, or a housing complex used for living, eating or sleeping quarters, uses water through a common meter; or in a house occupied by two (2) or more families where water is measured through one (1) meter the minimum monthly rate shall be the minimum bill amount times the number of units served through a common meter. Such facilities, served through a common meter shall be billed under the rated schedule as if each unit were separately metered. Approval shall be obtained from the utility director prior to the installation of any situation involving a common meter.

(2) The rates to be charged each commercial user or consumer of water per month using meters inside the corporate bounds shall be as follows:

For the first 2,000 gallons of water or less\$14.33 (Net)

All over 2,000 gallons of water, add \$ 2.94 per 1,000 gallons.

Where more than one (1) commercial building or complex uses water through a common meter, or in a building or buildings occupied by more than one (1) commercial user of water where the water is measured through a common meter, the minimum monthly bill shall be the minimum bill amount times the number of units served through the common meter. Such facilities, served through a common meter, shall be billed under the rate schedule as if each unit were separately metered. Approval shall be obtained from the utility director prior to the installation of any situation involving a common meter.

(3) The rates to be charged each industrial user or consumer of water per month using meters inside the corporate bounds shall be as follows:

For the first 2,000 gallons of water or less\$ 16.31 (Net)

All over 2,000 gallons of water, add \$ 2.94 per 1,000 gallons.

Where more than one (1) industrial building or complex, other than defined above, uses water through a common meter, or in a building or buildings occupied by more than one (1) industrial user of water where the water is measured through a common meter, the minimum monthly bill shall be the minimum bill amount times the number of units served through the common

¹All rates contained in § 18-128, with the exception of the percentages listed in subsections (6) and (7), be increased by an additional two and one-half percent (2.5%) (compounded) for any utility bills with a due date on or after July 1, 2022 and again increased by an additional two and one-half percent (2.5%) (compounded) for any utility bills with a due date on or after July 1, 2023, and again increased by an additional two and one-half percent (2.5%) (compounded) for any utility bills with a due date on or after July 1, 2024.

meter. Such facilities, served through a common meter, shall be billed under the rate schedule as if each unit were separately metered. Approval shall be obtained from the utility director prior to the installation of any situation involving a common meter.

(4) The rates to be charged each residential user or consumer of water per month using meters outside the corporate bounds shall be as follows:

All users other than those on the Deanburg System:

For the first 2,000 gallons of water or less.....\$ 18.64 (Net)

All over 2,000 gallons of water, add \$ 5.28 per 1,000 gallons.

All residential users on the Deanburg System:

For the first 2,000 gallons of water or less.....\$ 23.46 (Net)

All over 2,000 gallons of water, add \$ 5.28 per 1,000 gallons.

When two (2) or more houses, buildings, apartment houses, or a housing complex used for living, eating or sleeping quarters, uses water through a common meter; or in a house occupied by two (2) or more families where water is measured through one (1) meter the minimum monthly rate shall be the minimum bill amount times the number of units served through a common meter. Such facilities, served through a common meter shall be billed under the rated schedule as if each unit were separately metered. Approval shall be obtained from the utility director prior to the installation of any situation involving a common meter.

(5) The rates to be charged each commercial or industrial user or consumer of water per month using meters outside the corporate bounds shall be as follows:

For the first 2,000 gallons of water or less\$ 21.00 (Net)

All over 2,000 gallons of water, add \$ 5.28 per 1,000 gallons.

All commercial or industrial users on the Deanburg System:

For the first 2,000 gallons of water or less.....\$ 25.00 (Net)

All over 2,000 gallons of water, add \$ 5.28 per 1,000 gallons.

Where more than one (1) commercial or industrial buildings or complex uses water through a common meter, or in a building or buildings occupied by more than one commercial user of water where the water is measured through a common meter, the minimum monthly bill shall be the minimum bill amount times the number of units served through the common meter. Such facilities, served through a common meter, shall be billed under the rate schedule as if each unit were separately metered. Approval shall be obtained from the utility director prior to the installation of any situation involving a common meter.

(6) An additional ten percent (10%) will be charged and collected from all users and consumers whose bills have not been paid by the delinquent date of each month that such bills become due.

(7) In addition to the charges made for users and consumers of water, a charge of one hundred percent (100%) of the amount paid by such users and consumers shall be collected from all who have been connected to and are using

the sanitary sewer system of the City of Henderson, including those inside and outside the corporate bounds, or where any building falls under the availability of the City of Henderson's public sanitary sewer system as outlined in § 18-302.

(8) All who obtain their water supply from a source other than the City of Henderson water system which are connected to the sanitary sewer system of the City of Henderson, or where any building falls under the availability of the City of Henderson's public sanitary sewer system as outlined in § 18-302, shall be required to pay twenty-two dollars twenty-seven cents (\$22.27) per month inside the city and thirty-two dollars eighty-one cents (\$32.81) per month outside the city. (1976 Code, § 13-112, as amended by Ord. #271, Aug. 1993, Ord. #309, July 1997, and Ord. #388, April 2004, and replaced by Ord. #406, June 2005, Ord. #425, Aug. 2007, Ord. #456, June 2010, Ord. #490, July 2015 *Ch3_08-12-21*, Ord. #515, June 2018 *Ch3_08-12-21*, and Ord. #540, June 2021 *Ch3_08-12-21*)

18-129. Fluoridation of water. The water department is hereby authorized and instructed to make plans for the fluoridation of the water supply of the city; to submit such plans to the department of public health of the state for approval; and, upon approval, to add such chemicals as fluoride to the water supply in accord with such approval as will adequately provide for the fluoridation of said water supply.

The cost of such fluoridation will be borne by the revenues of the water department. (1976 Code, § 13-129)

18-130. Water and sewer adjustments. The water and sewer superintendent shall be authorized to make adjustments to a water and sewer bill for reasons such as: underground leaks or burst pipes which makes a customer's water and sewer bill higher than normal. For the reasons indicated above, the water and sewer superintendent shall adjust the customer's bill for water so that he/she pays for his/her normal water bill (the average over the last twelve months) plus one-half the excess or wasted amount of water and the customer will pay a sewer charge equal to his/her average sewer bill over the past twelve months. Only one adjustment of this nature shall be made to a customer's bill during a twelve month period. The customer is also required to correct the leak before he/she is eligible to receive an adjustment. (1976 Code, § 13-130)

18-131. User charge system for wastewater treatment facilities.

(1) **Annual review and notification.** The city will review annually the wastewater contribution of users, user classes, the total cost of operation and maintenance of the treatment works and collection system, and its approved user charge system. As necessary, the city will revise the charges for users or user classes to accomplish the following:

(a) Maintain the proportionate distribution of operation and maintenance costs among users and user classes.

(b) Generate sufficient revenue to pay operation and maintenance cost necessary for the proper operation of the collection system and the treatment works.

(c) Apply excess revenues collected, if any, from a class of users to the cost of operation and maintenance attributable to that class for the next year and adjust the rate accordingly.

As necessary and as applicable, each user will be notified annually in conjunction with a regular bill of the rate and that portion of the user charge that is attributable to wastewater collection system and treatment services.

(2) Charges for operation and maintenance. The cost of operation and maintenance for all flows, such as extraneous flows, infiltration/inflow, or unmetered water shall be distributed among all users based on the flow volume of the user. Flow volume of the user shall be determined by water meter records of usage unless the user elects to install at its own expense a sewer flow meter. The flow meter shall meet the city's approval prior to installation of the meter. Maintenance of such meter shall be the sole responsibility of the user.

(3) Sewer user charges.

(a) Classification of users. Users of the wastewater system shall be classified into two (2) general classes or categories depending upon the users contribution of wastewater loads; each class user being identified as follows:

(i) Class I. Those users whose average biochemical oxygen demand is two hundred fifty milligrams per liter (250 mg/l) by weight or less, and whose suspended solids discharge is two hundred fifty milligrams per liter (250 mg/l) by weight or less.

(ii) Class II. Those users whose average biochemical oxygen demand exceeds two hundred fifty milligrams per liter concentration (250 mg/l) by weight and whose suspended solids exceeds two hundred fifty milligrams per liter concentration (250 mg/l).

(b) Determination of costs. The city board of aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system. Said charges shall be based upon the cost categories of administration costs, including billing and accounting costs; operation and maintenance costs of the wastewater collection and treatment system; and debt service costs.

(i) All users who fall under Class I shall pay a single unit charge expressed as dollars per 1,000 gallons of water purchased (\$/1,000 gallons) with the unit charge being determined in accordance with the following formula:

$$C_i = \frac{T.S.C.}{1,000}$$

Where: V_t

C_i = the Class I total unit cost in \$/1,000 gallons.

T.S.C. = the total operation and maintenance, administration, and debt service determined by yearly budget projections.

V_t = the total volume of wastewater contribution from all users per year as determined from projections from one city fiscal year to the next.

(ii) All users who fall within the Class II classification shall pay the same base unit charge per 1,000 gallons of water purchased as for the Class I users and in addition shall pay a surcharge rate on the excessive amount of biochemical oxygen demand and suspended solids in direct proportion to the actual discharge quantities.

(iii) The volume of water purchased which is used in the calculation of sewer use charges may be adjusted by the water and sewer superintendent if a user purchases a significant volume of water for consumptive use and does not discharge it to the public sewers (i.e., filling swimming pools, industrial heating, humidifying equipment, etc.). The user shall be responsible for documenting the quantity of waste discharged to the public sewer.

(iv) When either or both the total suspended solids or biochemical oxygen demand quantities discharged into the treatment works is in excess of those described in § 18-131 (3)(a)(i), above, thus being classified as Class II users, the following formula shall be used to compute the appropriate user charge:

$$C_u = V_c V_u + B_c B_u + S_c S_u$$

Where:

C_u = Total user charge per unit of time.

V_c = Total cost for transportation and treatment of a unit of wastewater volume.

V_u = Volume contribution per unit of time.

B_c = Total cost for treatment of a unit of biochemical oxygen demand (BOD).

B_u = Total BOD contribution for a user per unit of time.

S_c = Total cost of treatment of a unit of suspended solids.

S_u = Total suspended solids contribution from a user per unit of time.

(c) Surcharge fees. If it is determined by the city that the discharge of the other loading parameters or wastewater substances are creating excessive operation and maintenance costs within the wastewater system, whether collection or treatment then the monetary effect of such a parameter or parameters shall be borne by the discharge of such parameters in proportion to the amount of discharge.

(d) Use of revenue from wastewater facilities. Any revenue, derived from the sale of by-products of the treatment process, lease or sale of crops grown on land purchased or owned, used by and for the wastewater facilities, shall be used to offset the cost of operation and maintenance. These revenues shall be applied proportionately to all user charges. (1976 Code, § 13-131)

CHAPTER 2

GENERAL WASTEWATER REGULATIONS

SECTION

- 18-201. Purpose and policy.
- 18-202. Administrative.
- 18-203. Definitions.
- 18-204. Proper waste disposal required.
- 18-205. Private domestic wastewater disposal.
- 18-206. Connection to public sewers.
- 18-207. Septic tank effluent pump or grinder pump wastewater systems.
- 18-208. Regulation of holding tank waste disposal or trucked in waste.
- 18-209. Discharge regulations.
- 18-210. Enforcement and abatement.
- 18-211--18-223. [Deleted.]

18-201. Purpose and policy. This chapter sets forth uniform requirements for users of the City of Henderson, Tennessee, wastewater treatment system and enables the city to comply with the Federal Clean Water Act and the state Water Quality Control Act and rules adopted pursuant to these acts. The objectives of this chapter are:

- (1) To protect public health;
- (2) To prevent the introduction of pollutants into the municipal wastewater treatment facility, this will interfere with the system operation;
- (3) To prevent the introduction of pollutants into the wastewater treatment facility that will pass through the facility, inadequately treated, into the receiving waters, or otherwise be incompatible with the treatment facility;
- (4) To protect facility personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (5) To promote reuse and recycling of industrial wastewater and sludge from the facility;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the facility; and
- (7) To enable the city to comply with its National Pollution Discharge Elimination System (NPDES) permit conditions, sludge and biosolid use and disposal requirement, and any other federal or state industrial pretreatment rules to which the facility is subject.

In meeting these objectives, this chapter provides that all persons in the service area of the City of Henderson must have adequate wastewater treatment either in the form of a connection to the municipal wastewater treatment system or, where the system is not available, an appropriate private disposal system.

This chapter shall apply to all users inside or outside the city who are, by implied contract or written agreement with the city, dischargers of applicable

wastewater to the wastewater treatment facility. Chapter 3 provides for the issuance of permits to system users, for monitoring, compliance, and enforcement activities; establishes administrative review procedures for industrial users or other users whose discharge can interfere with or cause violations to occur at the wastewater treatment facility. Chapter 3 details permitting requirements including the setting of fees for the full and equitable distribution of costs resulting from the operation, maintenance, and capital recovery of the wastewater treatment system and from other activities required by the enforcement and administrative program established herein. (1976 Code, § 13-201, as replaced by Ord. #472, Dec. 2012)

18-202. Administrative. Except as otherwise provided herein, the utility director will fill the role of local administrative officer of the city and shall administer, implement, and enforce the provisions of this chapter. The mayor and board of aldermen shall serve as the local hearing authority. (1976 Code, § 13-202, as replaced by Ord. #472, Dec. 2012)

18-203. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

(1) "Administrator." The administrator or the United States Environmental Protection Agency.

(2) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended and found in 33 U.S.C. § 1251, et seq.

(3) "Approval authority." The Tennessee Department of Environment and Conservation, Division of Water Pollution Control.

(4) "Authorized or duly authorized representative of industrial user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can insure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been

assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the users is a federal, state, or local governmental agency: a director or highest official appointed or designated to oversee the operation and performance of the activities of the governmental facility, or their designee.

(d) The individual described in subsections (a) through (c) above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

(5) "Best Management Practices (BMPS)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-209 of this chapter. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "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 (20) centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

(7) "Building sewer." A sewer conveying wastewater from the premises of a user to the publicly owned sewer collection system.

(8) "Categorical standards." The national categorical pretreatment standards or pretreatment standards as found in 40 C.F.R. chapter I, subchapter N, parts 405--471.

(9) "City." The Board of Mayor and Aldermen, City of Henderson, Tennessee.

(10) "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.

(11) "Compatible pollutant" shall mean 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.

(12) "Composite sample." A sample composed of two (2) or more discrete samples. The aggregate sample will reflect the average water quality covering the compositing or sample period.

(13) "Control authority." The term "control authority" shall refer to the "approval authority," defined herein above; or the local hearing authority if the city has an approved pretreatment program under the provisions of 40 C.F.R. 403.11.

(14) "Cooling water." The water discharge from any use such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat.

(15) "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 the city for such service.

(16) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day. The daily maximum for pH is the highest value tested during a twenty-four (24) hour calendar day.

(17) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where the limit is expressed in units of mass, the limit is the maximum amount of total mass of the pollutant that can be discharged during the calendar day. Where the limit is expressed in concentration, it is the arithmetic average of all concentration measurements taken during the calendar day.

(18) "Direct discharge." The discharge of treated or untreated wastewater directly to the waters of the State of Tennessee.

(19) "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.

(20) "Environmental Protection Agency (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.

(21) "Garbage." Solid wastes generated from any domestic, commercial or industrial source.

(22) "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.

(23) "Grease interceptor." A device so constructed as to separate and trap grease substances from the facility sewage discharge line in order to keep grease substances from entering the sanitary sewer collection system. This device is generally located inside the building.

(24) "Grease trap." A device placed under or in close proximity to sinks or other facilities likely to discharge grease in an attempt to separate, trap or hold grease substances to prevent their entry into the sanitary sewer collection system. Such under the sink "grease traps" may be considered a "grease interceptor" for purposes of this section under special circumstances authorized in writing, by the superintendent. This device is typically located outside the building.

(25) "Holding tank waste." Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

(26) "Incompatible pollutant." Any pollutant which is not a "compatible pollutant" as defined in this section.

(27) "Indirect discharge." The introduction of pollutants into the WWF from any non-domestic source.

(28) "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).

(29) "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.

(30) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample, independent of the industrial flow rate and the duration of the sampling event.

(31) "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, permitting normal sewage or waste to discharge into the drainage system by gravity.

(32) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the WWF, its treatment processes or, its sludge processes, use or disposal, or exceeds the design capacity of the treatment works or collection system.

(33) "Local administrative officer." Utility Director of Henderson, Tennessee.

(34) "Local hearing authority." The Board of Mayor and Aldermen of Henderson.

(35) "National categorical pretreatment standard." Any regulation containing pollutant discharge limits promulgated by the EPA in accordance

with 307(b) and (c) of the Act (33 U.S.C. § 1347) which applies to a specific category of industrial users.

(36) "North American Industrial Classification System (NAICS)." A system of industrial classification jointly agreed upon by Canada, Mexico and the United States. It replaces Standard Industrial Classification (SIC) System.

(37) "New source." (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building structure, facility or installation is constructed at a site which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of a source at the site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of parts (a)(ii) or (a)(iii) of this but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

(i) Begun, or caused to begin as part of a continuous onsite program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including cleaning, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding, contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

(38) "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 Clean Water Act as amended.

(39) "Pass through." A discharge which exits the Wastewater Facility (WWF) into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the WWF's NPDES permit including an increase in the magnitude or duration of a violation.

(40) "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.

(41) "pH." The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(42) "Pollution." The man-made or man induced alteration of the chemical, physical, biological, and radiological integrity of water.

(43) "Pollutant." Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, turbidity, color, BOD, COD, toxicity, or odor discharge into water).

(44) "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 C.F.R. section 403.6(d).

(45) "Pretreatment coordinator." The person designated by the local administrative officer or his authorized representative to supervise the operation of the pretreatment program.

(46) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment other than a national pretreatment standard imposed on an industrial user.

(47) "Pretreatment standards" or "standards." A prohibited discharge standard, categorical pretreatment standard and local limit.

(48) "Publicly Owned Treatment Works (POTW)." A treatment works as defined by the municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey

wastewater to a POTW treatment plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. See WWF Wastewater Facility, found in definition number (63), below.

(49) "Shall" is mandatory; "May" is permissive.

(50) "Significant industrial user." The term significant industrial user means:

(a) All industrial users subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. 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 WWF (excluding sanitary, non-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 C.F.R. 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirements (in accordance with 40 C.F.R. 403.8(f)(6)).

(51) "Significant noncompliance" per 120040140.08(6)(b)8.

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for each parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(b) Technical Review Criteria (TRC) violations, defined here 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 equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(c) Any other violation of a pretreatment standard or requirement (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF 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 WWF's exercise of its emergency authority under section 305(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.

(f) Failure to meet, 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 noncompliance.

(h) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours.

(52) "Slug." Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the WWF's regulations, local limits, or permit conditions.

(53) "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.

(54) "State." The State of Tennessee.

(55) "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.

(56) "Storm water." Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(57) "Superintendent." The utility director or person designated by him to supervise the operations of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.

(58) "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.

(59) "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.

(60) "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.

(61) "User." The owner, tenant or occupant of any lot or parcel of land connected to a sanitary sewer, or for which a sanitary sewer line is available if a municipality levies a sewer charge on the basis of such availability, Tennessee Code Annotated, § 68-221-201.

(62) "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 WWF.

(63) "Wastewater facility." Any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, which is owned by any person. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a WWF treatment plant. The term also means the municipality as defined in section 502(4) of the Federal Clean Water Act, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. WWF was formally known as a POTW, or Publicly Owned Treatment Works.

(64) "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.

(65) "1200-4-14." Chapter 1200-4-14 of the Rules and Regulations of the State of Tennessee, Pretreatment Requirements. (1976 Code, § 13-203, as replaced by Ord. #472, Dec. 2012)

18-204. Proper waste disposal required. (1) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the service area of the city, any human or animal excrement, garbage, or other objectionable waste.

(2) It shall be unlawful to discharge to any waters of the state within the service area of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this chapter or city or state regulations.

(3) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.

(4) Except as provided in subsection (6) 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 private or public sewer in accordance with the

provisions of this chapter. Where public sewer is available property owners shall within sixty (60) days after date of official notice to do so, connect to the public sewer. Service is considered "available" when a public sewer main is located within five hundred feet (500') of an easement, right-of-way, road or public access way to the property.

(5) Where a public sanitary sewer is not available under the provisions of subsection (4) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of § 18-205 of this chapter.

(6) 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. (1976 Code, § 13-204, as replaced by Ord. #472, Dec. 2012)

18-205. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-204(4), the building sewer shall be connected, until the public sewer is available, to a private wastewater disposal system complying with the provisions of the applicable local and state regulations.

(b) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city. When it becomes necessary to clean septic tanks, at no expense to the city. When it becomes necessary to clean septic tanks, the sludge may be disposed of only according to applicable federal and state regulations.

(c) Where a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days after date of official notice from the city to do so.

(2) Requirements. (a) The type, capacity, location and layout of a private sewerage disposal system shall comply with all local or state regulations. Before commencement of construction of a private sewerage disposal system, the owner shall first obtain a written approval from the Tennessee Department of Environment and Conservation, Division of Groundwater Protection. The application for such approval shall be made on a form furnished by TDEC which the applicant shall supplement with any plans or specifications that the department has requested.

(b) Approval for a private sewerage disposal system shall not become effective until the legislation is completed to the satisfaction of the local and state authorities, who shall be allowed to inspect the work at any stage of construction.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, Division of Groundwater

Protection. No septic tank or cesspool shall be permitted to discharge to waters of Tennessee.

(d) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the county health department. (1976 Code, § 13-205, as replaced by Ord. #472, Dec. 2012)

18-206. Connection to public sewers. (1) Application for public sewers. (a) There shall be two (2) classifications of service:

- (i) Residential; and
- (ii) Service to commercial, industrial and other nonresidential establishments.

In either case, the owner or his agent shall make application for connection on a special form furnished by the city. Applicants for service to commercial and industrial establishments shall be required to furnish information about all waste producing activities, wastewater characteristics and constituents. The application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. Details regarding commercial and industrial permits include but are not limited to those required by this chapter. Service connection fees for establishing new sewer service are paid to the city. Industrial user discharge permit fees may also apply. 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, or state and federal requirement, the connection charge will be refunded in full, and there shall be no liability of the city to the applicant for such service.

(b) Users shall notify the city of any proposed new introduction of wastewater constituents or any proposed change in the volume or character of the wastewater being discharged to the system a minimum of sixty (60) days prior to the change. The city may deny or limit this new introduction or change based upon the information submitted in the notification.

(2) Prohibited connections. No person shall make connections of roof downspouts, sump pumps, basement wall seepage or floor seepage, exterior foundation drains, area way drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. Any such connections which already exist on the effective date of the ordinance comprising this chapter shall be completely and permanently disconnected within sixty (60) days of the effective date of the ordinance comprising this chapter. The owners of any building sewer having such connections, leaks or defects shall bear the entire

costs incidental to removal of such sources. Pipes, sumps and pumps for such sources of groundwater shall be separate from the sanitary sewer.

(3) 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 without prior written approval by the superintendent. The city shall inspect all connections to the public sewer prior to backfilling. The property owner is required to make application for connection to the public sewer.

The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the superintendent. A service connection fee shall be paid to the city at the time the application is filed.

The applicant is responsible for excavation and installation of the building sewer which is located on private property. The city will inspect the installation prior to backfilling.

(b) All costs and expenses incident to the installation, connection, and inspection of the building sewer shall be borne by the owner including all service and connection fees. 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, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. Where property is subdivided and buildings using a common building sewer is now located on separate properties, the building sewers must be separated prior to the subdivision of the property.

(d) Old building sewer service lines may be used in connections with new buildings only when they are found, on examination and tested by a licensed plumber, and approved by the superintendent to meet all requirements of this chapter. All others may be sealed to the specifications of the superintendent.

(e) Building sewer service lines shall conform to the following requirements:

(i) The minimum size of a building sewer shall be as follows: Conventional sewer system--four inches (4").

(ii) The minimum depth of a building sewer service line shall be eighteen inches (18"), have a minimum two foot (2') vertical separation below and two foot (2') horizontal separation from any water service line.

(iii) Building sewer service lines shall be laid on the following grades: Four inch (4") sewers--one-eighth inch (1/8") per

foot. Larger building sewer service lines shall be laid on a grade that will produce a velocity when flowing full of at least 2.0 feet per second.

(iv) Building, sewer service lines shall be installed in uniform alignment at uniform slopes.

(v) Building sewer service lines shall be constructed only of polyvinyl chloride pipe schedule 40 or better. Joints shall be solvent welded or compression gaskets designed for the type of pipe used. No other joints shall be acceptable.

(vi) Cleanouts shall be provided to allow cleaning in the direction of flow. A cleanout shall be located five feet (5') outside of the building, as it crosses the property line, one (1) at each change of direction of the building sewer which is greater than forty-five degrees (45°), and spaced no greater than seventy-five feet (75') apart. Cleanouts shall be extended to or above the finished grade level directly above the place where the cleanout is installed and protected from damage. 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"). Blockages on the property owner's service line are the responsibility of the property owner.

(vii) Connections of building sewer service lines to the public sewer system shall be made only by licensed plumbing contractors, and shall be made using a collar type rubber joint with stainless steel bands. Finished bedding must support pipe connections and sewer service line piping to prevent damage or sagging. All such connections shall be made gastight and watertight.

(viii) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved pump system according to § 18-207 and discharged to the building sewer at the expense of the owner.

(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 the city or to the procedures set forth in appropriate specifications by the ASTM. 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) The owner shall guard all excavations for building sewer service line installation 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) Inspection of connections. (i) The sewer connection and all building sewer service lines 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 service line is ready for inspection and connection to the public sewer is complete.

(4) Maintenance of building sewer service lines. Each individual property owner shall be entirely responsible for the construction, maintenance, repair or replacement of the building sewer service line as deemed necessary by the superintendent to meet specifications of the city. Owners failing to maintain or repair building sewers or who allow storm water or ground water to enter the sanitary sewer may face enforcement action by the superintendent up to and including discontinuation of water and sewer service.

(5) 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. All plans and construction must follow the latest edition of Tennessee Design Criteria for Sewerage works, located at <http://www.state.tn.us/environment/wpc/publications/>. Contractors must provide the superintendent with as-built drawing and documentation that shall all mandrel, pressure and vacuum tests as specified in design criteria were acceptable prior to use of the lines. 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. The superintendent 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. (1976 Code, § 13-206, modified, as replaced by Ord. #472, Dec. 2012)

18-207. Septic tank effluent pump or 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, Septic Tank Effluent Pump (STEP) or Grinder Pump (GP) systems may be installed subject to approval and the regulations of the city.

(1) Equipment requirements. (a) Septic tanks shall be of water tight construction and must be approved by the city.

(b) Pumps must be approved by the superintendent.

(2) Installation requirements. Location of tanks, pumps, and effluent lines shall be subject to the approval of the superintendent. Installation shall follow design criteria for STEP and GP systems as provided by the manufacture and approved by the superintendent.

(3) Costs. STEP and 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 superintendent and connection will be made to the city sewer only after inspection and approval of the superintendent. Maintenance and repair costs are the responsibility of the owner.

(4) Easements. Homeowners or developers shall maintain an easement for access to perform necessary maintenance or repair. Access to the STEP and GP system must be guaranteed to operate, maintain, repair, restore service, and remove sludge, allow for inspection, and monitoring activities. Access manholes, ports, and electrical disconnects must not be locked, obstructed or blocked by landscaping or construction.

(5) Use of STEP and GP systems. (a) Home or business owners shall follow the STEP and GP users' guide provided by the manufacturer.

(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 of lines and connections from the building to the city sewer.

(d) Prohibited uses of the STEP and GP system. (i) Connection of roof guttering, sump pumps or surface drains.

(ii) Disposal of toxic household substances.

(iii) Use of garbage grinders or disposers.

(iv) Discharge of pet hair, lint, or home vacuum water.

(v) Discharge of fats, grease, and oil.

(6) Tank cleaning. Solids removal from the septic tank shall be the responsibility of the owner. (1976 Code, § 13-207, as replaced by Ord. #472, Dec. 2012)

18-208. Regulation of holding tank waste disposal or trucked in waste. (1) No person, firm, association or corporation shall haul in or truck in to the WWF any type of domestic, commercial or industrial waste unless such person, firm, association, or corporation obtains a written approval 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.

(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 § 18-307 of this title. Any such permit granted shall be for a specified period of time, and shall continue in full force and effect from the time issued until the expiration date, unless sooner revoked, and shall be nontransferable. The number of the permit 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 discretion where it appears that the waste could interfere with the operation of the WWF.

(4) Revocation of permit. Failure to comply with all provisions of the permit or this chapter shall be sufficient cause for the revocation of such permit by the superintendent. The possession within the service area by any person of any motor vehicle equipped with a body type and accessories of a nature and design capable of serving a septic tank of wastewater or excreta disposal system cleaning unit shall be prima facie evidence that such person is engaged in the business of cleaning, draining, or flushing septic tanks or other wastewater or excreta disposal systems within the service area of the City of Henderson.

(5) Trucked in waste. This part includes waste from trucks, railcars, barges, etc., or temporarily pumped waste, all of which are prohibited without a permit issued by the superintendent. This approval may require testing, flow monitoring and record keeping. (1976 Code, § 13-208, as replaced by Ord. #472, Dec. 2012)

18-209. 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 WWF. These general prohibitions apply to all such users of a WWF 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 this section 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 or 18-305. A user may not contribute the following substances to any WWF:

(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 WWF or to the operation of the WWF. Prohibited flammable materials including, but not limited to, waste streams with a closed cup flash point of less than one hundred forty degrees Fahrenheit (140° F) or sixty degrees Centigrade (60° C) using the test methods specified in 40 C.F.R. 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketone, 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 6.0 or higher than 9.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the WWF.

(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: 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 WWF.

(e) Any wastewater having a temperature which will inhibit biological activity in the WWF treatment plant resulting in interference, but in no case wastewater with a temperature at the introductions into the WWF which exceeds forty degrees Centigrade (40° C) (one hundred four degrees Fahrenheit (104° F)) unless approved by the State of Tennessee.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts greater than one hundred (100) mg/l, that will cause interference or pass through.

(g) Wastewater that has been classified as hazardous waste. The user shall notify the supervisor, EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. part 261, defined in the Tennessee Rules and Regulations 1200-1-11 is prohibited. The EPA hazardous waste number and type of discharge. Additional notification requirements may apply as required by 40 C.F.R. 403.12(p).

(h) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems.

(i) 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 WWF, 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.

(j) Any trucked or hauled pollutants except at discharge points designated by the WWF.

(k) Any substance which may cause WWF's effluent or any other product of the WWF 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 WWF cause the WWF to be in non-compliance with sludge use or disposal criteria, 40 C.F.R. 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.

(l) Any substances which will cause the WWF to violate its NPDES permit or the receiving water quality standards.

(m) Any wastewater causing discoloration of the wastewater treatment plant effluent to the extent that the receiving water quality requirements would be violated, such as, but not limited to, dye wastes and vegetable tanning solutions.

(n) Any waters or wastes causing an unusual volume of flow or concentration of waste constituting "slug" as defined herein.

(o) Any waters containing any radioactive wastes or isotopes of such half life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.

(p) Any wastewater which causes a hazard to human life or creates a public nuisance.

(q) Any waters or wastes containing, more than 100 mg/l of animal or vegetable fats, wax, grease, or oil, whether emulsified or not, which could cause accumulations of solidified fat in pipes, lift stations and pumping equipment, or interfere at the treatment plan.

(r) Detergents, surfactant, surface-acting agents or other substances which may cause excessive foaming at the WWF or pass through of foam.

(s) Wastewater causing, alone or in conjunction with other sources, the WWF to fail toxicity tests.

(t) Any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water 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) Local limits. In addition to the general and specific prohibitions listed in this section, users permitted according to chapter 3 may be subject to numeric and best management practices as additional restrictions to their wastewater discharge in order to protect the WWF from interference or protect the receiving waters from pass through contamination.

(3) Pretreatment requirements. Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of this section, or those dischargers who are classified as significant industrial users will be required to meet the requirement of this chapter, and also chapter 3.

(4) Restrictions on wastewater strength. No person or user shall discharge wastewater which exceeds the set of standards provided in Table A--Plant protection Criteria, unless specifically allowed by their discharge permit according to chapter 3 of this title. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered in violation of this chapter.

Table A--Plant Protection Criteria

| Parameter | Maximum Concentration (mg/l) |
|----------------------|------------------------------|
| Arsenic | .100 |
| Benzene | .006 |
| Cadmium | .00893 |
| Carbon Tetrachloride | .050 |
| Chloroform | .217 |
| Chromium III | 10 |
| Chromium IV | .250 |
| Chromium (total) | .105 |
| Copper | .265 |
| Cyanide | .100 |

| Parameter | Maximum Concentration (mg/l) |
|----------------------------|------------------------------|
| Ethylbenzene | .02353 |
| Lead | .100 |
| Mercury | .00065 |
| Methylene chloride | .059 |
| Molybdenum | .321 |
| Naphthalene | .00278 |
| Nickel | .250 |
| Phenol | .058 |
| Selenium | .248 |
| Silver | .050 |
| Tetrachloroethylene | .27778 |
| Toluene | .13636 |
| Total Phthalate | .129 |
| Trichlorethlene | .333 |
| 1,1,1-Trichloroethane | .333 |
| 1.2. Transdichloroethylene | .0125 |
| Zinc | .290 |

(4) Fats, Oils and Grease (FOG). Refer to City of Henderson title 18, chapter 6, ordinance #420 -- Grease Removal and Grease Interceptor Requirements. (1976 Code, § 13-209, modified, as replaced by Ord. #472, Dec. 2012)

18-210. Enforcement and abatement. Violators of these wastewater regulations may be cited to city court, general sessions court, chancery court, or other court of competent jurisdiction, face fines, have sewer service terminated or the city may seek further remedies as needed to protect the collection system, treatment plant, receiving stream and public health including the issuance of discharge permits according to chapter 3. Repeated or continuous violation of this chapter is declared to be a public nuisance and may result in legal action against the property owner and/or occupant and the service line disconnected from sewer main. Upon notice by the superintendent that a violation has or is occurring, the user shall immediately take steps to stop or correct the violation. The city may take any or all the following remedies:

(1) Cite the user to city or general sessions's court, where each day of violation shall constitute a separate offense.

(2) In an emergency situation where the superintendent has determined that immediate action is needed to protect the public health, safety

or welfare, a public water supply or the facilities of the sewerage system, the superintendent may discontinue water service or disconnect sewer service.

(3) File a lawsuit in chancery court or any other court of competent jurisdiction seeking damages against the user, and further seeking an injunction prohibiting further violations by user.

(4) Seek further remedies as needed to protect the public health, safety or welfare, the public water supply or the facilities of the sewerage system. (1976 Code, § 13-210, modified, as replaced by Ord. #472, Dec. 2012)

18-211.-- 18-223. Deleted. (1976 Code, § 13-211, and §§ 13-213--13-224, were deleted by Ord. #472, Dec. 2012)

CHAPTER 3

INDUSTRIAL/COMMERCIAL WASTEWATER REGULATIONS

SECTION

- 18-301. Industrial pretreatment.
- 18-302. Discharge permits.
- 18-303. Industrial user additional requirements.
- 18-304. Reporting requirements.
- 18-305. Enforcement response plan.
- 18-306. Enforcement response guide table.
- 18-307. Fees and billing.
- 18-308. Validity.
- 18-309--18-310. [Deleted.]

18-301. Industrial pretreatment. In order to comply with Federal Industrial Pretreatment Rules 40 C.F.R. 403 and Tennessee Pretreatment Rules 1200-4-14 and to fulfill the purpose and policy of this chapter the following regulations are adopted.

(1) User discharge restrictions. All system users must follow the general and specific discharge regulations specified in § 18-209 of this title.

(2) Users wishing to discharge pollutants at higher concentrations than Table A Plant Protection Criteria of § 18-209, or those dischargers who are classified as significant industrial users will be required to meet the requirements of this chapter. Users who discharge wastewater which falls under the criteria specified in this chapter and who fail to or refuse to follow the provisions shall face termination of service and/or enforcement action specified in § 18-305.

(3) Discharge regulation. Discharges to the sewer system shall be regulated through use of a permitting system. The permitting system may include any or all of the following activities: completion of survey/application forms, issuance of permits, oversight of users monitoring and permit compliance, use of compliance schedules, inspections of industrial processes, wastewater processing, and chemical storage, public notice of permit system changes and public notice of users found in significant noncompliance.

(4) Discharge permits shall limit concentrations of discharge pollutants to those levels that are established as local limits, Table B or other applicable state and federal pretreatment rules which may be in effect or take effect after the passage of the ordinance comprising this chapter.

Table B -- Local Limits

| Pollutant | Daily Maximum Concentration (mg/l) |
|----------------------------|---------------------------------------|
| Arsenic | 0.38168 |
| Benzene | .01818 |
| Cadmium | .04149 |
| Carbon Tetrachloride | .2334 |
| Chloroform | .098963 |
| Chromium III | 46.9968 |
| Chromium IV | 1.09500 |
| Chromium (total) | 1.71 |
| Copper | 1.2279 |
| Cyanide | .462 |
| Ethylbenzene | .10058 |
| Lead | .43 |
| Mercury | .00274 |
| Methylene chloride | .14018 |
| Molybdenum | 1.4848758 |
| Naphthalene | .01147 |
| Nickel | 1.09868 |
| Phenol | .16028 |
| Selenium | 1.16422 |
| Silver | .23404 |
| Tetrachloroethylene | 1.30477 |
| Toluene | .62505 |
| Total Phthalate | .21740 |
| Trichlorethlene | 1.56345 |
| 1,1,1-Trichloroethane | 1.55664 |
| 1.2. Transdichloroethylene | .05715 |
| Zinc | 1.30476 |
| Oil and Grease | 30 |
| pH | 6.0--9.0 |

*Based on 24-hour flow proportional composite samples unless specified otherwise.

(5) Surcharge limits and maximum concentrations. Dischargers of high strength waste may be subject to surcharges based on the following surcharge

limits as posted in § 18-307. Maximum concentrations may also be established for some users.

Table C -- Surcharge and Maximum Limits

| Parameter | Surcharge Limit (mg/l) | Maximum Concentration |
|-------------------------------|------------------------|-----------------------|
| Total Kjeldahl Nitrogen (TKN) | 85 | 127.5 |
| Oil and Grease | 100 | 150 |
| BOD | 300 | 450 |
| Suspended Solids | 300 | 450 |

(6) Protection of treatment plant influent. The pretreatment coordinator shall monitor the treatment works influent for each parameter in Table 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 WWF reaches or exceeds the levels established by Table 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 local limits, best management practices, or other criteria used to protect the WWF. The pretreatment coordinator shall also recommend changes to any of these criteria in the event that: the WWF effluent standards are changed, there are changes in any applicable law or regulation affecting same, or changes are needed for more effective operations of the WWF.

(7) User inventory. The superintendent will maintain an up-to-date inventory of a user whose waste does or may fall into the requirements of this chapter, and will notify the users of their status.

(8) 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 which are more restrictive when wastes are determined to be harmful or destructive to the facilities of the WWF or to create a public nuisance, or to cause the discharge of the WWF to violate effluent or stream quality standards, or to interfere with the use or handling of sludge, or to pass through the WWF 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.

(9) Combined waste stream formula. When wastewater subject to categorical pretreatment standards is mixed with wastewater not regulated by

the same standard, the permitting authority may impose an alternate limit using the combined waste stream formula. (1976 Code, § 13-301, as replaced by Ord. #472, Dec. 2012)

18-302. Discharge permits. (1) Application for discharge of commercial or industrial wastewater. All users or prospective users which generate commercial or industrial wastewater shall make application to the superintendent for connection to the municipal wastewater treatment system. It may be determined through the application that a user needs a discharge permit according to the provisions of federal and state laws and regulations. Applications shall be required from all new dischargers as well as for any existing discharger desiring additional service or where there is a planned change in the industrial or wastewater treatment process. Connection to the city sewer or changes in the industrial process or wastewater treatment process shall not be made until the application is received and approved by the superintendent, the building sewer is installed in accordance with § 18-206 of this title 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 WWF shall apply for service and apply for a discharge permit before connecting to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF. All existing industrial users connected to or contributing to the WWF may be required to apply for a permit within sixty (60) days after the effective date of the ordinance comprising this chapter.

(b) Applications. Applications for wastewater discharge permits shall be required as follows:

(i) Users required by the superintendent 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.

(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, but not be limited to the following information: name, address, and SIC/NAICS number of applicant; wastewater volume; wastewater constituents and characteristics, including but not limited to those mentioned in §§ 18-209 and 18-301 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 wastewater discharge permit submit plans, specifications and other pertinent information relative to the proposed construction to the pretreatment coordinator for approval. 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, "pretreatment standard," shall include either a national pretreatment standard or a pretreatment standard imposed by this chapter.

(v) The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater discharge permit subject to terms and conditions provided herein.

(vi) The receipt by the city of a prospective customer's application for wastewater 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.

(viii) Applications shall be signed by the duly authorized representative.

(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.

(i) Permits shall contain the following:

(A) Statement of duration;

(B) Provisions of transfer;

(C) Effluent limits, including best management practices, based on applicable pretreatment standards in this chapter, state rules, and categorical pretreatment standards, local, state, and federal laws.

(D) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;

(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;

(F) Requirements to control slug discharges, if determined by the WWF to be necessary;

(G) Requirement to notify the WWF immediately, if changes in the users' processes affect the potential for a slug discharge.

(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 inspection 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) Prohibition of bypassing pretreatment or pretreatment equipment;

(H) Effluent mass loading restrictions;

(I) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

(d) 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 sixty (60) days prior to the effective date of change. Except in the case where federal deadlines are shorter, in which case the federal rules must be followed. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(e) Permit 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 renewal a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit.

(f) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the written approval of the city. 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.

(g) Revocation of permit. Any permit issued under the provisions of this chapter is subject to be modified, suspended, or revoked in whole or in part during its term for cause including, but not limited to, the following:

(i) Violation of any terms or conditions of the wastewater discharge permit or other applicable federal, state, or local law or regulation.

(ii) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts.

(iii) A change in:

(A) Any condition that requires either a temporary or permanent reduction or elimination of the permitted discharge;

(B) Strength, volume, or timing of discharges;

(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, questionnaires, permit applications, 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 city's or user's NPDES permit. Provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the 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. (1976 Code, § 13-302, as replaced by Ord. #472, Dec. 2012)

18-303. Industrial user additional requirements. (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) Sample methods. All samples collection and analyzed pursuant to this regulation shall be conducted using protocols (including appropriate preservation) specified in the current addition of 40 C.F.R. 136 and appropriate EPA guidance. Multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: For cyanide, total phenol, and sulfide the samples may be composited in the laboratory or in the field; for volatile organic and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate.

(3) Representative sampling and housekeeping. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measuring facilities shall be properly operated, kept clean, and in good working order at all times. The failure of the user to keep its monitoring facilities in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(4) Proper operation and maintenance. The user shall at all times properly operate and maintain the equipment and facilities association with spill control, wastewater collection, treatment, sampling and discharge. Proper operation and maintenance includes adequate process control as well as adequate testing and monitoring quality assurance.

(5) Inspection and sampling. The city 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 its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination and copying or in the performance of any of its duties. The city, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. The city will utilize qualified city personnel or a private laboratory to conduct compliance monitoring. 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 arrangement with their security guards so that upon presentation of suitable identification, personnel from the city, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibility.

(6) Safety. While performing the necessary work on private properties, the pretreatment coordinator or duly authorized employees of the city shall

observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the monitoring and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions.

(7) New sources. New sources of discharges to the WWF shall have in full operation all pollution control equipment at start up of the industrial process and be in full compliance of effluent standards within ninety (90) days of start up of the industrial process.

(8) Slug discharge evaluations. Evaluations will be conducted of each significant industrial user according to the state and federal regulations. Where it is determined that a slug discharge control plan is needed, the user shall prepare that plan according to the appropriate regulatory guidance.

(9) Accidental discharges or slug discharges. (a) Protection from accidental or slug discharge. All industrial users shall provide such facilities and institute such procedures as are reasonably necessary to prevent or minimize the potential for accidental or slug discharge into the WWF 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 or slug discharge. Any person causing or suffering from any accidental discharge or slug discharge shall immediately notify the pretreatment coordinator in person, or by the telephone to enable countermeasures to be taken by the pretreatment coordinator to minimize damage to the WWF, 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 WWF, 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. (1976 Code, § 13-303, as replaced by Ord. #472, Dec. 2012)

18-304. Reporting requirements. Users, whether permitted or non-permitted may be required to submit reports detailing the nature and characteristics of their discharges according to the following subsections. Failure to make a requested report in the specified time is a violation subject to enforcement actions under § 18-305.

(1) **Baseline monitoring report.** (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the WWF shall submit to the superintendent a report which contains the information listed in subsection (B) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the superintendent a report which contains the information listed in subsection (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) Identifying information. The user name, address of the facility including the name of operators and owners.

(ii) Permit information. A listing of any environmental control permits held by or for the facility.

(iii) Description of operations. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the WWF from the regulated processes.

(iv) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula.

(v) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the superintendent, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 40 C.F.R. 136 and amendments, unless otherwise specified in an applicable categorical standard. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the superintendent or the applicable standards to determine compliance with the standard.

(E) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this subsection.

(F) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow the use of the combined waste stream formula to evaluate compliance with the pretreatment standards.

(G) Sampling and analysis shall be performed in accordance with 40 C.F.R. 136 or other approved methods.

(H) The superintendent may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(I) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF.

(c) Compliance certification. A statement, reviewed by the user's duly authorized representative and certified by a qualified

professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(d) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 18-304(2) of this chapter.

(e) Signature and report certification. All baseline monitoring reports be certified in accordance with § 18-304(14) of this chapter and signed by the duly authorized representative.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by § 18-304(1)(d) of this chapter:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).

(b) No increment referred to above shall exceed three (3) months.

(c) The user shall submit a progress report to the superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

(d) In no event shall more than three (3) months elapse between such progress reports to the superintendent.

(3) Reports on compliance with categorical pretreatment standard deadline. Within thirty (30) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the WWF, any user subject to such pretreatment standards and requirements shall submit to the superintendent a report containing the information described in § 18-304(1)(b)(vi) and (v) of this chapter. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with

subsection (14) of this section. All sampling will be done in conformance with subsection (11).

(4) Periodic compliance reports. (a) All significant industrial users must at a frequency determined by the superintendent submit no less than twice per year (April 10 and October 10) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the superintendent or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with this chapter.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring, and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the superintendent, using the procedures prescribed in subsection (11) of this section, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the superintendent of any significant changes to the user's operations or system which might alter the nature, or volume of its wastewater at least sixty (60) days before the change.

(a) The superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-301 of this chapter.

(b) The superintendent may issue an individual wastewater discharge permit under § 18-302 of this chapter or modify an existing wastewater discharge permit under § 18-302 of this chapter in response to changed conditions or anticipated changed conditions.

(6) Report of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the pretreatment coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (a) above. Employees shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the pretreatment coordinator immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the superintendent as the superintendent may require determining users' status as non-permitted.

(8) Notice of violations/repeat sampling and reporting. Where a violation has occurred, another sample shall be conducted within thirty (30) days of becoming aware of the violation, either a repeat sample or a regularly scheduled sample that falls within the required time frame. If sampling performed by a user indicates a violation, the user must notify the pretreatment coordinator within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the pretreatment coordinator within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the industrial user.

(9) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 C.F.R. part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including methods or any

other applicable sampling and analytical procedures, including procedures suggested by the superintendent or other parties approved by EPA.

(10) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (b) and (c) below, the user must collect wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the superintendent. Where time proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organic and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring, and ninety (90) day compliance reports required in subsections (1) and (3) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the superintendent may authorize a lower minimum. For the reports required by subsection (4) of this section, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(11) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, the date of receipt of the report shall govern.

(12) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-302. Records for Best Management Practices (BMP) per Tennessee Rule

1200-4-14-.12(15)(b) will also be included for inspection and copying. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the superintendent.

(13) Certification statements--signature and certification. All reports associated with compliance with the pretreatment program shall be signed by the duly authorized representative and shall have the following certification statement attached:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Reports required to have signatures and certification statement include, permit applications, periodic reports, compliance schedules, baseline monitoring, reports of accidental or slug discharges, and any other written report that may be used to determine water quality and compliance with local, state, and federal requirements. (1976 Code, § 13-304, as replaced by Ord. #472, Dec. 2012)

18-305. Enforcement response plan. Under the authority of Tennessee Code Annotated, § 69-3-123, et seq.:

(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 Henderson Wastewater Regulations, pretreatment program, or of orders 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 § 18-305(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 (i) through (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 city 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 specific actions. 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 noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may 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 compliance or other documents establishing an agreement with the user responsible for noncompliance, including specific action to be taken by the user to correct the noncompliance 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 WWF, 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 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, 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 (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 Chester 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 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 (b).

(viii) Any person to whom an emergency order is directed under § 18-305(1)(b)(i)(D) 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 the common law writ of certiorari set out in Tennessee Code Annotated, § 27-8-101, et seq., within sixty (60) days from the date the order or determination is made.

(c) Show cause hearing. Notwithstanding the provisions of subsections (a) or (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 discharger permit or termination of service.

(3) Violations, administrative civil penalty. Under the authority of Tennessee Code Annotated, § 69-3-125:

(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 limitations;
- (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 attorney's 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 noncompliance with program permits or orders.

(a) The local administrative officer may assess the liability of any pollutant or violator for damages to the city 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 of 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 § 18-302(2)(g) of this chapter, users are subject to termination of their wastewater discharge for violations of a wastewater discharge permit, or orders issued hereunder, or for any of the following conditions:

(a) Violation of wastewater discharge permits 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 § 18-209.

(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 noncompliance." Per 1200-4-14-.08(6)(b)8.

(i) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter

taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limit.

(ii) Technical Review Criteria (TRC) violations, defined here 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 equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC=1.4 for BOD, TSS fats, oils and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required.

(iii) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF 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).

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under § 18-305(1)(b)(i)(D), emergency order, to halt or prevent such a discharge.

(v) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(vi) 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.

(vii) Failure to accurately report noncompliance.

(viii) Any other violation or group of violations, which may include a violation of best management practices, which the WWF determines will adversely affect the operation of implementation of the local pretreatment program.

(ix) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceed limits by more than 0.5 s.u. more than eight (8) times in four (4) hours. Any significant non-compliance violations will be responded to according to the Enforcement Response Plan Guide Table (Appendix A).

(9) Public notice of the significant violations. The superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous six (6) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all

significant industrial users (or any other industrial user that violates subsections (C), (D) or (H) of this section) and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH), TRC calculations for pH are not required;

(c) Any other violation of a pretreatment standard or requirement (daily maximum of longer-term average, instantaneous limit, or narrative standard) that the WWF 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 WWF's exercise of its emergency authority under § 18-305(1)(b)(i)(D), "Emergency Order," to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within thirty (30) days after their due date, required report 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 noncompliance; or

(h) Any other violation(s), which may include a violation of best management practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(i) Continuously monitored pH violations that exceed limits for a time period greater than fifty (50) minutes or exceeds by more than 0.5 s.u. more than eighty (8) times in four (4) hours.

(10) Criminal penalties. In addition to civil penalties imposed by the local administrative officer and the State of Tennessee, any person who willfully and negligently violates permit conditions is subject to criminal penalties imposed by the State of Tennessee and the United States. (1976 Code, § 13-305, as replaced by Ord. #472, Dec. 2012)

18-306. 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 A¹ to impose sanctions or penalties for the violation of this chapter. (1976 Code, § 13-307, as replaced by Ord. #472, Dec. 2012)

18-307. Fees and billing. (1) Purpose. It is the purpose of this chapter to provide for the equitable recovery of costs from users of the city's wastewater treatment system including costs of operation, maintenance, administration, bond service costs, capital improvements, depreciation, and equitable cost recovery of EPA administered federal wastewater grants.

(2) Types of charges and fees. The charges and fees as established in the city's schedule of charges and fees may include but are not limited to:

- (a) Inspection fee and tapping fee;
- (b) Fees for applications for discharge;
- (c) Sewer use charges;
- (d) Surcharge use charges;
- (e) Waste hauler permit;
- (f) Industrial wastewater discharge permit fees;
- (g) Fees for industrial discharge monitoring; and
- (h) Other fees as the city 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 § 18-302 of this chapter.

(4) Inspection fee and tapping fee. An inspection fee and tapping fee for a building sewer installation shall be paid to the city's sewer department at the time the application is filed.

(5) Sewer user charges. The board of mayor and aldermen shall establish monthly rates and charges for the use of the wastewater system and for the services supplied by the wastewater system.

(6) Industrial wastewater discharge permit fees. A fee may be charged for the issuance of an industrial wastewater discharge fee in accordance with § 18-307 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 city 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 A). The local administrative

¹Appendix A is available for review in the office of the city recorder.

officer may assess a penalty within the appropriate range. Penalty assessments are to be assessed per violation per day 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 |

(1976 Code, § 13-308, as replaced by Ord. #472, Dec. 2012)

18-308. Validity. This chapter and its provisions shall be valid for all service areas, regions, and sewage works under the jurisdiction of the city. (1976 Code, § 13-309, modified, as replaced by Ord. #472, Dec. 2012)

18-309.-- 18-310. [Deleted]. (1976 Code, §§ 13-309--13-310 were deleted by Ord. #472, Dec. 2012)

CHAPTER 4

SEWAGE AND HUMAN EXCRETA DISPOSAL¹

SECTION

- 18-401. Definitions.
- 18-402. Places required to have sanitary disposal methods.
- 18-403. When a connection to the public sewer is required.
- 18-404. When a septic tank shall be used.
- 18-405. Registration and records of septic tank cleaners, etc.
- 18-406. Use of pit privy or other method of disposal.
- 18-407. Approval and permit required for septic tanks, privies, etc.
- 18-408. Owner to provide disposal facilities.
- 18-409. Occupant to maintain disposal facilities.
- 18-410. Only specified methods of disposal to be used.
- 18-411. Discharge into watercourses restricted.
- 18-412. Pollution of ground water prohibited.
- 18-413. Enforcement of chapter.
- 18-414. Carnivals, circuses, etc.
- 18-415. Violations.

18-401. Definitions. The following definitions shall apply in the interpretation of this chapter:

(1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within five hundred (500) feet of any boundary of said property measured along the shortest available right-of-way.

(2) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.

(3) "Human excreta." The bowel and kidney discharges of human beings.

(4) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.

(5) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the Tennessee Department of Environment and Conservation. Such tanks shall have a capacity of not less than 750 gallons and in the case of homes with more than two (2) bedrooms the capacity of the tank shall be in accordance with the recommendations of the Tennessee Department of Health as provided for in its 1967 bulletin entitled "Recommended Guide for Location, Design, and Construction of Septic Tanks and Disposal Fields." A

¹Municipal code reference

Plumbing code: title 12, chapter 2.

minimum liquid depth of four (4) feet should be provided with a minimum depth of air space above the liquid of one (1) foot. The septic tank dimensions should be such that the length from inlet to outlet is at least twice but not more than three (3) times the width. The liquid depth should not exceed five (5) feet. The discharge from the septic tank shall be disposed of in such a manner that it may not create a nuisance on the surface of the ground or pollute the underground water supply, and such disposal shall be in accordance with recommendations of the health officer as determined by acceptable soil percolation data.

(6) "Sanitary pit privy." A privy having a fly-tight floor and seat over an excavation in earth, located and constructed in such a manner that flies and animals will be excluded, surface water may not enter the pit, and danger of pollution of the surface of the ground or the underground water supply will be prevented.

(7) "Other approved method of sewage disposal." Any privy, chemical toilet, or other toilet device (other than a sanitary sewer, septic tank, or sanitary pit privy as described above) the type, location, and construction of which have been approved by the health officer.

(8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1976 Code, § 8-301, modified)

18-402. Places required to have sanitary disposal methods. Every residence, building, or place where human beings reside, assemble, or are employed within the corporate limits shall be required to have a sanitary method for disposal of sewage and human excreta. (1976 Code, § 8-302)

18-403. When a connection to the public sewer is required. Wherever an accessible sewer exists and water under pressure is available, approved plumbing facilities shall be provided and the wastes from such facilities shall be discharged through a connection to said sewer made in compliance with the requirements of the official responsible for the public sewerage system. On any lot or premise accessible to the sewer no other method of sewage disposal shall be employed. (1976 Code, § 8-303)

18-404. When a septic tank shall be used. Wherever water carried sewage facilities are installed and their use is permitted by the health officer, and an accessible sewer does not exist, the wastes from such facilities shall be discharged into an approved septic tank system.

No septic tank or other water-carried sewage disposal system except a connection to a public sewer shall be installed without the approval of the health officer or his duly appointed representative. The design, layout, and construction of such systems shall be in accordance with specifications approved by the health officer and the installation shall be under the general supervision of the department of health. (1976 Code, § 8-304)

18-405. Registration and records of septic tank cleaners, etc. Every person, firm or corporation who operates equipment for the purpose of removing digested sludge from septic tanks, cesspools, privies, and other sewage disposal installations on private or public property must register with the health officer and furnish such records of work done within the corporate limits as may be deemed necessary by the health officer. (1976 Code, § 8-305)

18-406. Use of pit privy or other method of disposal. Wherever a sanitary method of human excreta disposal is required under § 18-402 and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1976 Code, § 8-306)

18-407. Approval and permit required for septic tanks, privies, etc. Any person, firm, or corporation proposing to construct a septic tank system, privy, or other sewage disposal facility, requiring the approval of the health officer under this chapter, shall before the initiation of construction obtain the approval of the health officer for the design and location of the system and secure a permit from the health officer for such system. (1976 Code, § 8-307)

18-408. Owner to provide disposal facilities. It shall be the duty of the owner of any property upon which facilities for sanitary sewage or human excreta disposal are required by § 18-402, or the agent of the owner to provide such facilities. (1976 Code, § 8-308)

18-409. Occupant to maintain disposal facilities. It shall be the duty of the occupant, tenant, lessee, or other person in charge to maintain the facilities for sewage disposal in a clean and sanitary condition at all times and no refuse or other material which may unduly fill up, clog, or otherwise interfere with the operation of such facilities shall be deposited therein. (1976 Code, § 8-309)

18-410. Only specified methods of disposal to be used. No sewage or human excreta shall be thrown out, deposited, buried, or otherwise disposed of, except by a sanitary method of disposal as specified in this chapter. (1976 Code, § 8-310)

18-411. Discharge into watercourses restricted. No sewage or excreta shall be discharged or deposited into any lake or watercourse except under conditions specified by the health officer and specifically authorized by the Tennessee Stream Pollution Control Board. (1976 Code, § 8-311)

18-412. Pollution of ground water prohibited. No sewage, effluent from a septic tank, sewage treatment plant, or discharges from any plumbing facility shall empty into any well, either abandoned or constructed for this

purpose, cistern, sinkhole, crevice, ditch, or other opening either natural or artificial in any formation which may permit the pollution of ground water. (1976 Code, § 8-312)

18-413. Enforcement of chapter. It shall be the duty of the health officer to make an inspection of the methods of disposal of sewage and human excreta as often as is considered necessary to insure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health such person shall at once take steps to remove the menace, and failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1976 Code, § 8-313)

18-414. Carnivals, circuses, etc. Whenever carnivals, circuses, or other transient groups of persons come within the corporate limits such groups of transients shall provide a sanitary method for disposal of sewage and human excreta. Failure of a carnival, circus, or other transient group to provide such sanitary method of disposal and to make all reasonable changes and corrections proposed by the health officer shall constitute a violation of this section. In these cases the violator shall not be entitled to the notice of forty-five (45) days provided for in the preceding section. (1976 Code, § 8-314)

18-415. Violations. Any person, persons, firm, association, or corporation or agent thereof, who shall fail, neglect, or refuse to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punishable under the general penalty clause for this code. (1976 Code, § 8-315)

CHAPTER 5

CROSS-CONNECTIONS, AUXILIARY INTAKES, ETC.¹

SECTION

- 18-501. Definitions.
- 18-502. Compliance with Tennessee Code Annotated.
- 18-503. Regulated.
- 18-504. Permit required.
- 18-505. Inspections.
- 18-506. Right of entry for inspections.
- 18-507. Correction of violations.
- 18-508. Required devices.
- 18-509. Non potable supplies.
- 18-510. Statement required.
- 18-511. Penalty; discontinuance of water supply.
- 18-512. Provision applicable.

18-501. Definitions. The following words, terms and phrases shall have the meanings ascribed to them in this section, when used in the interpretation and enforcement of this article:

(1) "Air-gap" shall mean a vertical, physical separation between a water supply and the overflow rim of a non-pressurized receiving vessel. An approved air-gap separation shall be at least twice the inside diameter of the water supply line, but in no case less than two inches (2"). Where a discharge line serves as receiver, the air-gap shall be at least twice the diameter of the discharge line, but not less than two inches (2").

(2) "Atmospheric vacuum breaker" shall mean a device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in the water system.

(3) "Auxiliary intake" shall mean any water supply, on or available to a premises, other than that directly supplied by the public water system. These auxiliary waters may include water from another purveyor's public water system; any natural source, such as a well, spring, river, stream, and so forth; used, reclaimed or recycled waters; or industrial fluids.

(4) "Backflow" shall mean the undesirable reversal of the intended direction of flow in a potable water distribution system as a result of a cross connection.

¹Municipal code references

Plumbing code: title 12.

Water and sewer system administration: title 18.

Wastewater treatment: title 18.

(5) "Backpressure" shall mean any elevation of pressure in the downstream piping system (caused by pump, elevated tank or piping, stream and/or air pressure) above the water supply pressure at the point which would cause, or tend to cause, a reversal of the normal direction of flow.

(6) "Backsiphonage" shall mean the flow of water or other liquids, mixtures or substances into the potable water system from any source other than its intended source, caused by the reduction of pressure in the potable water system.

(7) "Bypass" shall mean any system of piping or other arrangement whereby water from the public water system can be diverted around a backflow prevention device.

(8) "Cross connection" shall mean any physical connection or potential connection whereby the public water system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water system as a result of backflow or backsiphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices, through which or because of which backflow could occur, are considered to be cross connections.

(9) "Double check valve assembly" shall mean an assembly of two (2) independently operating, approved check valves with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each check valve.

(10) "Double check detector assembly" shall mean an assembly of two (2) independently operating approved check valves with an approved water meter (protected by another double check valve assembly) connected across the check valves, with tightly closing resilient seated shut-off valves on each side of the check valves, fitted with properly located resilient seated test cocks for testing each part of the assembly.

(11) "Fire protection systems" shall be classified in six different classes in accordance with AWWA Manual M14-Second Edition 1990. The six classes are as follows:

Class 1 shall be those with direct connections from public water mains only; no pumps, tanks or reservoirs; no physical connection from other water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to the atmosphere, dry wells or other safe outlets.

Class 2 shall be the same as Class 1, except that booster pumps may be installed in the connections from the street mains.

Class 3 shall be those with direct connection from public water supply mains, plus one or more of the following: elevated storage tanks, fire pumps taking suction from above ground covered reservoirs or tanks, and/or pressure tanks (all storage facilities are filled from or connected to public water only, and the water in the tanks is to be maintained in a potable condition).

Class 4 shall be those with direct connection from the public water supply mains, similar to Class 1 and Class 2, with an auxiliary water supply dedicated to fire department use and available to the premises, such as an auxiliary supply located within 1700 ft. of the pumper connection.

Class 5 shall be those directly supplied from public water mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems or where antifreeze or other additives are used.

Class 6 shall be those with combined industrial and fire protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(12) "Interconnection" shall mean any system of piping or other arrangements whereby the public water supply is connected directly with a sewer, drain, conduit, pool, storage reservoir, or other device which does or may contain sewage or other waste or liquid which would be capable of imparting contamination to the public water system.

(13) "Person" shall mean any and all persons, natural or artificial, including any individual, firm or association, and any municipal or private corporation organized or existing under the laws of this or any other state or country.

(14) "Potable water" shall mean water, which meets the criteria of the Tennessee Department of Environment and Conservation and the United States Environmental Protection Agency for human consumption.

(15) "Pressure vacuum breaker" shall mean an assembly consisting of a device containing one (1) or two (2) independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check valve(s), with tightly closing shut-off valves on each side of the check valves and properly located test cocks for the testing of the check valves and relief valve.

(16) "Public water supply" shall mean the Henderson Water System water system, which furnishes potable water to the public for general use and which is recognized as the public water supply by the Tennessee Department of Environment and Conservation.

(17) "Reduced pressure principle backflow prevention device" shall mean an assembly consisting of two (2) independently operating approved check valves with an automatically operating differential relief valve located between the two check valves, tightly closing resilient seated shut-off valves, plus properly located resilient seated test cocks for the testing of the check valves and the relief valve.

(18) "Manager" shall mean the Manager of the Henderson Water System or his duly authorized deputy, agent or representative.

(19) "Water system" shall be considered as made up of two (2) parts, the utility system and the customer system.

(a) The utility system shall consist of the facilities for the storage and distribution of water and shall include all those facilities of the water system under the complete control of the utility system, up to the point where the customer's system begins (i.e. the water meter);

(b) The customer system shall include those parts of the facilities beyond the termination of the utility system distribution system that are utilized in conveying domestic water to points of use.

18-502. Compliance with Tennessee Code Annotated. The Henderson Water System shall be responsible for the protection of the public water system from contamination or pollution due to the backflow of contaminants through the water service connection. The Henderson Water System shall comply with Tennessee Code Annotated, § 68-221-711, as well as the Rules and Regulations for Public Water Systems and Drinking Water Quality, legally adopted in accordance with this code, which pertain to cross connections, auxiliary intakes, bypasses and interconnections; and shall establish an effective, on-going program to control these undesirable water uses.

18-503. Regulated. (1) No water service connection to any premises shall be installed or maintained by the Henderson Water System system unless the water supply system is protected as required by state laws and this chapter. Service of water to any premises shall be discontinued by the utility system if a backflow prevention device required by this chapter is not installed, tested, and/or maintained; or if it is found that a backflow prevention device has been removed, bypassed, or if an unprotected cross connection exists on the premises. Service shall not be restored until such conditions or defects are corrected.

(2) It shall be unlawful for any person to cause a cross connection to be made or allow one to exist for any purpose whatsoever unless the construction and operation of same have been approved by the Tennessee Department of Environment and Conservation, and the operation of such cross connection is at all times under the direction of the manager of the Henderson Water System.

(3) If, in the judgment of the manager or his designated agent, an approved backflow prevention device is required at the water service connection to a customer's premises, or at any point(s) within the premises, to protect the potable water supply, the manager shall compel the installation, testing and maintenance of the required backflow prevention device(s) at the customer's expense.

(4) An approved backflow prevention device shall be installed on each water service line to a customer's premises at or near the property line or immediately inside the building being served; but in all cases, before the first branch line leading off the service line.

(5) For new installations, the manager or his designated agent shall inspect the site and/or review plans in order to assess the degree of hazard and to determine the type of backflow prevention device, if any, that will be required,

and to notify the owners in writing of the required device and installation criteria. All required devices shall be installed and operational prior to the initiation of water service.

(6) For existing premises, personnel from the Henderson Water System shall conduct inspections and evaluations, and shall require correction of violations in accordance with the provisions of this chapter.

18-504. Permit required. (1) New installations. No installation, alteration, or change shall be made to any backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first contacting the Henderson Water System for approval.

(2) Existing installations. No alteration, repair, testing or change shall be made of any existing backflow prevention device connected to the public water supply for water service, fire protection or any other purpose without first securing the appropriate approval from the Henderson Water System.

18-505. Inspections. The manager or his designated agent shall inspect all properties served by the public water supply where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspection shall be based on potential health hazards involved, and shall be established by the Henderson Water System in accordance with guidelines acceptable to the Tennessee Department of Environment and Conservation.

18-506. Right of entry for inspections. The manager or his authorized representative shall have the right to enter, at any reasonable time, any property served by a connection to the Henderson Water System public water system for the purpose of inspecting the piping system therein for cross connection, auxiliary intakes, bypasses or interconnections, or for the testing of backflow prevention devices. Upon request, the owner, lessee, or occupant of any property so served shall furnish any pertinent information regarding the piping system(s) on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections, and shall be grounds for disconnection of water service.

18-507. Correction of violations. (1) Any person found to have cross connections, auxiliary intakes, bypasses or interconnections in violation of the provisions of this chapter shall be allowed a reasonable time within which to comply with the provisions of this chapter. After a thorough investigation of the existing conditions and an appraisal of the time required to complete the work, an appropriate amount of time shall be assigned by the manager or his representative, but in no case shall the time for corrective measures exceed ninety (90) days.

(2) Where cross connections, auxiliary intakes, bypasses or interconnections are found that constitute an extreme hazard, with the immediate possibility of contaminating the public water system, the Henderson

Water System shall require that immediate corrective action be taken to eliminate the threat to the public water system. Expeditious steps shall be taken to disconnect the public water system from the on-site piping system unless the imminent hazard is immediately corrected, subject to the right to a due process hearing upon timely request. The time allowed for preparation for a due process hearing shall be relative to the risk of hazard to the public health and may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

(3) The failure to correct conditions threatening the safety of the public water system as prohibited by this chapter and Tennessee Code Annotated, § 68-221-711, within the time limits established by the manager or his representative, shall be grounds for denial of water service. If proper protection has not been provided after a reasonable time, the manager shall give the customer legal notification that water service is to be discontinued, and shall physically separate the public water system from the customer's on-site piping in such a manner that the two systems cannot again be connected by an unauthorized person, subject to the right of a due process hearing upon timely request. The due process hearing may follow disconnection when the risk to the public health and safety, in the opinion of the manager, warrants disconnection prior to a due process hearing.

18-508. Required devices. (1) An approved backflow prevention assembly shall be installed downstream of the meter on each service line to a customer's premises at or near the property line or immediately inside the building being served, but in all cases, before the first branch line leading off the service line, when any of the following conditions exist:

- (a) Impractical to provide an effective air-gap separation;
- (b) The owner/occupant of the premises cannot or is not willing to demonstrate to the utility that the water use and protective features of the plumbing are such as to pose no threat to the safety or potability of the water;
- (c) The nature and mode of operation within a premises are such that frequent alterations are made to the plumbing;
- (d) There is likelihood that protective measures may be subverted, altered or disconnected;
- (e) The nature of the premises is such that the use of the structure may change to a use wherein backflow prevention is required.
- (f) The plumbing from a private well or other water source enters the premises served by the public water system.

(2) The protective devices shall be of the reduced pressure zone type (except in the case of certain fire protection systems) approved by the Tennessee Department of Environment and Conservation and the utility, as to manufacture, model, size and application. The method of installation of backflow prevention devices shall be approved by the utility prior to installation

and shall comply with the criteria set forth in this chapter. The installation and maintenance of backflow prevention devices shall be at the expense of the owner or occupant of the premises.

(3) Applications requiring backflow prevention devices shall include, but shall not be limited to, domestic water service and/or fire flow connections for all medical facilities, all fountains, lawn irrigation systems, wells, water softeners and other treatment systems, swimming pools and on all fire hydrant connections other than those by the fire department in combating fires. Those facilities deemed by Henderson Water System as needing protection.

(a) Class 1, Class 2 and Class 3 fire protection systems shall generally require a double check valve assembly, except:

(i) A double check detector assembly shall be required where a hydrant or other point of use exists on the system; or

(ii) A reduced pressure backflow prevention device shall be required where:

(A) Underground fire sprinkler lines are parallel to and within ten (10) feet horizontally of pipes carrying sewage or significantly toxic materials;

(B) Premises have unusually complex piping systems;

(C) Pumpers connecting to the system have corrosion inhibitors or other chemicals added to the tanks of the fire trucks.

(b) Class 4, Class 5 and Class 6 fire protection systems shall require reduced pressure backflow prevention devices.

(c) Wherever the fire protection system piping is not an acceptable potable water system material, or chemicals such as foam concentrates or antifreeze additives are used, a reduced pressure backflow prevention device shall be required.

(4) The manager or his representative may require additional and/or internal backflow prevention devices wherein it is deemed necessary to protect potable water supplies within the premises.

(5) Installation criteria. The minimum acceptable criteria for the installation of reduced pressure backflow prevention devices, double check valve assemblies or other backflow prevention devices requiring regular inspection or testing shall include the following:

(a) All required devices shall be installed in accordance with the provisions of this chapter, by a person approved by Henderson Water System who is knowledgeable in the proper installation. Only licensed sprinkler contractors may install, repair or test backflow prevention devices on fire protection systems.

(b) All devices shall be installed in accordance with the manufacturer's instructions and shall possess appropriate test cocks, fittings and caps required for the testing of the device. All fittings shall

be of brass construction, unless otherwise approved by the utility, and shall permit direct connection to department test equipment.

(c) The entire device, including valves and test cocks, shall be easily accessible for testing and repair.

(d) All devices shall be placed in the upright position in a horizontal run of pipe.

(e) Device shall be protected from freezing, vandalism, mechanical abuse and from any corrosive, sticky, greasy, abrasive or other damaging environment.

(f) Reduced pressure backflow prevention devices shall be located a minimum of twelve inches (12") plus the nominal diameter of the device above either:

- (i) The floor,
- (ii) The top of opening(s) in the enclosure, or
- (iii) Maximum flood level, whichever is higher.

Maximum height above the floor surface shall not exceed sixty inches (60").

(g) Clearance from wall surfaces or other obstructions shall be at least six inches (6"). Devices located in nonremovable enclosures shall have at least twenty-four inches (24") of clearance on each side of the device for testing and repairs.

(h) Devices shall be positioned where a discharge from the relief port will not create undesirable conditions. The relief port must never be plugged, restricted or solidly piped to a drain.

(i) An approved air-gap shall separate the relief port from any drainage system. An approved air-gap shall be at least twice the inside diameter of the supply line, but never less than one inch (1").

(j) An approved strainer shall be installed immediately upstream of the backflow prevention device, except in the case of a fire protection system.

(k) Devices shall be located in an area free from submergence or flood potential, therefore never in a below grade pit or vault. All devices shall be adequately supported to prevent sagging.

(l) Adequate drainage shall be provided for all devices. Reduced pressure backflow prevention devices shall be drained to the outside whenever possible.

(m) Fire hydrant drains shall not be connected to the sewer, nor shall fire hydrants be installed such that backflow/back-siphonage through the drain may occur.

(n) Enclosures for outside installations shall meet the following criteria:

(i) All enclosures for backflow prevention devices shall be as manufactured by a reputable company or an approved equal.

(ii) For backflow prevention devices up to and including two inches (2"), the enclosure shall be constructed of adequate

material to protect the device from vandalism and freezing and shall be approved by Henderson Water System. The complete assembly, including valve stems and hand wheels, shall be protected by being inside the enclosure.

(iii) To provide access for backflow prevention devices up to and including two inches (2"), the enclosure shall be completely removable. Access for backflow prevention devices 2½" and larger shall be provided through a minimum of two access panels. The access panels shall be of the same height as the enclosure and shall be completely removable. All access panels shall be provided with built-in locks.

(iv) The enclosure shall be mounted to a concrete pad in no case less than four inches (4") thick. The enclosure shall be constructed, assembled and/or mounted in such a manner that it will remain locked and secured to the pad even if any outside fasteners are removed. All hardware and fasteners shall be constructed of 300 series stainless steel.

(v) Heating equipment, if required, shall be designed and furnished by the manufacturer of the enclosure to maintain an interior temperature of +40°F with an outside temperature of -30°F and a wind velocity of 15 miles per hour.

(o) Where the use of water is critical to the continuance of normal operations or the protection of life, property or equipment, duplicate backflow prevention devices shall be provided to avoid the necessity of discontinuing water service to test or repair the protective device. Where it is found that only one device has been installed and the continuance of service is critical, the utility shall notify, in writing, the occupant of the premises of plans to interrupt water services and arrange for a mutually acceptable time to test the device. In such cases, the utility may require the installation of a duplicate device.

(p) The utility shall require the occupant of the premises to keep any backflow prevention devices working properly; and to make all indicated repairs promptly. Repairs shall be made by qualified personnel acceptable to the utility. Expense of such repairs shall be borne by the owner for occupant of the premises. The failure to maintain a backflow prevention device in proper working condition shall be grounds for discontinuance of water service to a premises. Likewise the removal, bypassing or alteration of a backflow prevention device or the installation thereof, so as to render a device ineffective shall constitute a violation of this chapter and shall be grounds for discontinuance of water service. Water service to such premises shall not be restored until the customer has corrected or eliminated such conditions or defects to the satisfaction of the utility.

(6) Testing of devices. The customer is responsible for having device(s) inspected annually (no less than ten (10) months nor more than twelve (12)

months from the previous inspection) by a qualified person possessing a valid cross-connection certification from the Tennessee Department of Environment and Conservation, Division of Water Supply. A copy of the annual inspection report indicating an approved inspection must be filed with the utility within thirty (30) days of the inspection date. Annual inspection reports must contain, at a minimum, the following information:

- (a) Customer name;
- (b) Business name;
- (c) Business 911 address;
- (d) Device type;
- (e) Device manufacturer;
- (f) Device model number;
- (g) Device serial number;
- (h) Device location;
- (i) Testing operator's name;
- (j) Testing operator's phone number;
- (k) Testing operator's license number;
- (l) Testing equipment manufacturer;
- (m) Testing equipment serial number;
- (n) Date of test;
- (o) Time of test.

The utility may elect to perform follow-up device integrity testing and a site inspection. (as amended by Ord. #450, Oct. 2009)

18-509. Nonpotable supplies. The potable water supply made available to a premises served by the public water system shall be protected from contamination as specified in the provisions of this chapter. Any water pipe or outlet which could be used for potable or domestic purposes and which is not supplied by the potable water system must be labeled in a conspicuous manner such as:

WATER UNSAFE FOR DRINKING

The minimum acceptable sign shall have black letters at least one inch (1") high located on a red background. Color coding of pipelines, in accordance with (OSHA) Occupational Safety and Health Act guidelines, shall be required in locations where in the judgment of the utility, such coding is necessary to identify and protect the potable water supply.

18-510. Statement required. Any person whose premises are supplied with water from the public water system, and who also has on the same premises a well or other separate source of water supply, or who stores water in an uncovered or unsanitary storage reservoir from which the water is circulated through a piping system, shall file with the utility a statement of the nonexistence of unapproved or unauthorized cross connections, auxiliary

intakes, bypasses or interconnections. Such statement shall contain an agreement that no cross connections, auxiliary intakes, bypasses or interconnections will be permitted upon the premises. Such statement shall also include the location of all additional water sources utilized on the premises and how they are used. Maximum backflow protection shall be required on all public water sources supplied to the premises.

18-511. Penalty; discontinuance of water supply. (1) Any person who neglects or refuses to comply with any of the provisions of this chapter may be deemed guilty of a misdemeanor and subject to a fine.

(2) Independent of and in addition to any fines or penalties imposed, the manager may discontinue the public water supply service to any premises upon which there is found to be a cross connection, auxiliary intake, bypass or interconnection; and service shall not be restored until such cross connection, auxiliary intake, bypass or interconnection has been eliminated.

18-512. Provision applicable. The requirements contained in this chapter shall apply to all premises served by the Henderson Water System and are hereby made part of the conditions required to be met for the Henderson Water System to provide water service to any premises. The provisions of this chapter shall be rigidly enforced since it is essential for the protection of the public water distribution system against the entrance of contamination. Any person aggrieved by the action of the chapter is entitled to a due process hearing upon timely request.

CHAPTER 6

GREASE REMOVAL AND GREASE INTERCEPTOR REQUIREMENTS

SECTION

- 18-601. Definitions.
- 18-602. General criteria.
- 18-603. Grease interceptor maintenance.
- 18-604. Permit requirements.
- 18-605. Administrative requirements.
- 18-606. Violations and enforcement.

18-601. Definitions. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms will, for the purpose of this chapter, have the meanings indicated in this section:

(1) "Black water." Wastewater from sanitary fixtures such as toilets and urinals.

(2) "Common interceptor." A receptacle to which grease wastes are directed from more than one (1) facility having different operators or type of operations, such as in a food court.

(3) "Customer." A user, by site, who produces wastes from the user's process operations. The customer is responsible for assuring that the produced waste is disposed of in accordance with all federal, state, and local disposal regulations.

(4) "Food courts." Areas predominantly found in shopping centers, amusement parks, and festivals where several food preparation establishments, having different owners, may share seating space and/or plumbing facilities.

(5) "Food service facility." Any facility that cuts, cooks, bakes, prepares, or serves food, and/or disposes of food related wastes.

(6) "Garbage grinder." A device that shreds or grinds solid or semisolid waste materials into smaller portions for discharge into the sanitary sewer collection system.

(7) "Gray water." Refers to all wastewater other than black water as defined in this section.

(8) "Grease (grease substance)." A material composed primarily of fats or oils from animal or vegetable sources. The terms fat(s), oil, and fatty/oily like substance(s) will be deemed as grease/grease substance by definition.

(9) "Grease interceptor." A device so constructed as to separate and trap grease substances from the facility sewage discharged line in order to keep grease substances from entering the sanitary sewer collections system.

(10) "NPDES" stands for National Pollution Discharge Elimination System under which the Henderson Utility Department Wastewater Treatment Plants are permitted.

(11) "POTW" stands for Publicly Owned Treatment Works or "treatment works" as defined by section 212 of the Clean Water Act (33 U.S.C. 1292), which is owned or operated, in this instance, by the Henderson Utility Department. This definition includes any sewers that convey wastewater to the Henderson Utility Department sewage treatment plants.

(12) "Pretreatment coordinator." The Utility Director of the Henderson Utility Department or his/her designated representative, who is charged with the responsibility of administering the provisions of the pretreatment program to ensure compliance by users with applicable laws, rules, regulations, resolutions and ordinances relative to the concentration(s) of substances found in the waste stream of facilities connected to the POTW.

(13) "Sewage." The liquid, water, semi-solids, solids, found in wastes from residential, commercial, industrial facilities whether treated or untreated. The terms "waste" and "wastewater" will be deemed as sewage by definition.

(14) "Sewer lateral." A sewer line or lines maintained and controlled by private persons for the purpose of conveying sewage from the waste producing location to the sanitary sewer collection system.

(15) "Single service restaurant." A restaurant where the meals are served on throwaway plates and utensils.

(16) "Under the sink grease trap." A device placed under or in close proximity to sinks or other facilities likely to discharge grease in an attempt to separate, trap, or hold grease substances to prevent their entry into the sanitary sewer collection system. Such "under the sink grease traps" may be considered "grease interceptors" for purposes of this section under special circumstances authorized, in writing, by the utility director.

(17) "User" will mean a Henderson Utility Department customer operating a "food service facility" inside the Henderson Utility Department wastewater service area.

(18) "Utility director." The person designated by the mayor and board of aldermen 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.

(19) "Waste." The liquid and water-carried domestic or industrial waste, whether treated or untreated, from dwellings, commercial establishments, industrial facilities, and institutions. Wastes may include, but are not limited to, discharges from scullery sinks, pot and pan sinks, dishwashing machines, soup kettles, and floor drains located in areas where grease-containing materials might exist. The terms "sewage" and "wastewater" will be deemed as waste by definition.

(20) "Waste hauler." One who transfers waste from the site of a customer to an approved site for disposal or treatment. The hauler is responsible for assuring that all federal, state and local regulations are followed regarding waste transport. (as added by Ord. #403, June 2005, and replaced by Ord. #420, Feb. 2007)

18-602. General criteria. (1) Installation requirements. All proposed or newly remodeled food service facilities inside the Henderson Utility Department wastewater service area which are likely to discharge grease to the Henderson Utility Department sanitary sewer system will be required to install an approved, properly operated, and maintained grease interceptor. All existing food service facilities inside the Henderson Utility Department wastewater service area which are likely to discharge grease to the Henderson Utility Department sanitary sewer system will be required to install an approved, properly operated, and maintained grease interceptor by January 1, 2008.

(2) Prohibited discharge. Janitor sinks or fixtures, which have the potential to discharge black water to the grease interceptor, will not discharge through the grease interceptor unless specifically approved, in writing, by the utility director.

(3) Floor drains. Only floor drains which discharge or have the potential to discharge grease will be connected to a grease interceptor.

(4) Location. Each grease interceptor will be installed and connected so that it may be easily accessible for inspection, cleaning, and removal of the intercepted grease at any time. A grease interceptor may not be installed in any part of a building unless approved, in writing, by the utility director and, if deemed a requirement, by the Chester County Health Department. The location of the grease interceptor will meet the approval of the utility director.

(5) Design. Grease interceptors will be constructed in accordance with Henderson Utility Department standards and will have a minimum of two (2) compartments with fittings designed for grease retention. Other grease removal devices or technologies not meeting the grease interceptor definition in § 18-601(9) will be subject to the written approval of the utility director. Such approval will be based on demonstrated removal efficiencies of the proposed technology.

Access to grease interceptors will be provided by two (2) manholes terminating one inch (1") above a finished grade with cast iron frame and cover. Covers will be gas tight in construction. In areas where additional weight loads may exist, the grease interceptor will be designed to have adequate load bearing capacity (example: vehicular traffic in parking or driving areas).

Wastewater discharging to the grease interceptor will enter only through the inlet pipe of the interceptor. Each grease interceptor will have only one (1) inlet and one (1) outlet pipe.

All grease interceptors will have a capacity of not less than one thousand (1,000) gallons nor exceed a capacity of three thousand (3,000) gallons. If the calculated capacity using the formula in subsection (6) exceeds three thousand (3,000) gallons, then multiple units in series will be installed.

Grease interceptor designs represent minimum standards for normal usage. Installations with heavier usage require more stringent measures for which the user is responsible and will pay the costs to provide additional measures if required by Henderson Utility Department.

Under extreme condition(s), such as no property surrounding a building (i.e., zero property lines), an under the sink grease trap may be installed with approval, in writing, by the utility director. The size, number of units, configuration, and cycle of grease removal of the under the sink grease trap shall be at the sole discretion of the utility director.

(6) Grease interceptor sizing. The size of a grease interceptor will be determined by the following formula:

Food service facilities:

$$(S) \times (GS) \times (HR/12) \times (LF) = \text{Interceptor Capacity (in gallons)}$$

S = Number of seats in dining area

GS = Gallons of wastewater per seat (use 20 gallons for restaurants, use 10 gallons for single service restaurants)

HR = Number of hours restaurant is open

LF = Loading factor (use 1.25 for interstate highway, 1.00 other freeways, 1.00 recreational area, 0.80 main highway and 0.50 other highways)

Other establishments with commercial kitchens:

$$(M) \times (GM) \times (LF) = \text{Interceptor Capacity (in gallons)}$$

M = Meals prepared per day

GM = Gallons of wastewater per meal (use standard of five gallons per meal)

LF = Loading factor (use 1.00 x number of dishwashing machine(s) and 0.50 without dishwashing machine).

(as added by Ord. #403, June 2005, and replaced by Ord. #420, Feb. 2007)

18-603. Grease interceptor maintenance. (1) Pumping. The user, at the user's expense, will maintain all grease interceptors. Maintenance will include the complete removal of all contents, including floating materials, wastewater, and bottom sludges and solids. Decanting or discharging of removed waste back into the interceptor from which the waste was removed or any other grease interceptor, for the purpose of reducing the volume to be disposed, is prohibited.

(2) Pumping frequency. Grease interceptors must be pumped empty a minimum of once every four (4) months or when the solids level in the interceptor reaches thirty percent (30%) of the interceptor capacity. Pumping more frequently may be required as needed to prevent carry over of grease into the sanitary sewer collection system. Pumping frequency will be specified on the user's permit issued by the utility department.

(3) Disposal of grease interceptor pumpage. All grease waste removed from grease interceptor(s) must be disposed of at a State of Tennessee approved facility. In no way will the grease pumpage be returned to any private or public portion of the sanitary sewer collection system.

(4) Additives. Any additive(s) placed into the grease interceptor or facility discharge line system must be approved by and reported to the utility director. Such additives will include, but not be limited to, enzymes,

commercially available bacteria, or other additives designed to absorb, purge, consume, treat, or otherwise eliminate fats, oils, and grease. The use of additives will in no way be considered as a substitution to the maintenance procedures required herein.

Chemical treatments such as drain cleaners, acid and other chemicals designed to dissolve or remove grease will not be allowed to enter the grease interceptor.

(5) Grease waste cost reduction program. The user may elect to participate in the utility department's grease waste cost reduction program. The grease waste cost reduction program consists of grease removal service rates obtained by the normal bid process issued through the city. After making application for this program, the user will be billed for these services at the actual total cost to the utility department. (as added by Ord. #403, June 2005, and replaced by Ord. #420, Feb. 2007)

18-604. Permit requirements. (1) Permit. It will be unlawful for any facility producing grease to discharge waste into the sanitary sewer collection system without authorization, in writing, from the utility director. Application for approval of grease interceptor(s) will be made to the Henderson Utility Department. Upon approval, a non-transferable annual operating permit will be issued allowing the discharge of such waste streams into the sanitary sewer collection system. The user will apply for permit reissuance a minimum of ninety (90) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification or change by the Henderson Utility Department during the term of the permit, as additional limitations, requirements, or just cause is identified. The user will be informed of any proposed changes in the issued permit at least thirty (30) days prior to the effective date of the change(s). Any changes or new conditions in the permit will include a time schedule for compliance.

As a conditional precedent to the granting of a permit, the permittee under this section will agree to hold harmless Henderson Utility Department and Henderson Utility Department employees from any liabilities arising from the permit holder's operations under this permit.

(2) Permit fees. The mayor and board of aldermen shall establish the annual fee for the grease interceptor permit. (as added by Ord. #403, June 2005, and replaced by Ord. #420, Feb. 2007)

18-605. Administrative requirements. (1) Manifest. Each user must utilize a waste manifest system, usually supplied by the waste hauler, which confirms pumping, hauling, and disposal of waste pumpage from the grease interceptor(s). The customer must obtain a copy of the original manifest from the hauler and maintain the waste manifest in their records for a minimum of twenty-four (24) months from the day of pumpage. The customer is required to utilize only haulers approved by the Henderson Utility Department.

(2) Maintenance log. A facility must maintain a maintenance log recording each interceptor pumping. Logs must be maintained for a period of no less than twenty-four (24) months, include the date, time, amount pumped, hauler, and waste manifest. Additionally, the maintenance log shall be kept on the facility site in a conspicuous location for inspection and shall be made immediately available to any representative of Henderson Utility Department upon request.

(3) Monitoring. At the user's expense, the user shall provide, operate, and maintain safe and twenty-four (24) hour per day accessible monitoring facilities to allow observation, inspection, sampling, and flow measurement of the building sewer or internal drainage systems. There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis. When the physical location and hydraulic conditions are suitable, a manhole or similar facility existing as part of the sanitary sewer collection system may be utilized as the user's monitoring facilities when approved, in writing, by the utility director.

(4) Inspection and entry. Authorized personnel of Henderson Utility Department shall have the right to enter upon all properties, at any time, and without prior notification for the purpose of inspection, observation, measurement, sampling, testing, record review, and for any other reason deemed necessary. (as added by Ord. #403, June 2005, and replaced by Ord. #420, Feb. 2007)

18-606. Violations and enforcement. (1) Emergency discontinuance of services. Henderson Utility Department may discontinue water or sewer service when such discontinuance is deemed necessary to stop a suspected, actual, or threatened discharge which:

- (a) Presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment;
- (b) Will cause an obstruction(s), or excessive maintenance to be performed to the sanitary sewer collection system;
- (c) Will cause interference to the POTW;
- (d) Will cause Henderson Utility Department to violate any condition of its NPDES permit.

Any facility notified of a suspected, actual, or threatened discharge in to the sewer service shall take immediate action to stop or eliminate the discharge. In the event a facility fails to voluntarily comply with the suspension order, Henderson Utility Department shall take such steps, as deemed necessary, which will include the immediate discontinuance of water or sewer service, to prevent or minimize damage to the POTW system, sewer connection, or endangerment of the public health. Henderson Utility Department shall reinstate the water or sewer service when such conditions causing the suspension have passed or been eliminated. A detailed written statement submitted by the user describing the cause(s) of the harmful discharge and the measure(s) taken to prevent any future occurrence shall be submitted to

Henderson Utility Department within three (3) business days of the date of the occurrence.

(2) Enforcement. The utility director shall have the administrative authority to enforce this chapter. The City of Henderson may elect to recover damages and cost as a result of the violation of this chapter.

(3) Notice of violation. Henderson Utility Department may serve any user a written notice stating the nature of violation. Within three (3) business days of the date of notice, a plan for the satisfactory correction thereof shall be submitted to the utility director.

(4) Consent order. The utility director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for non-compliance. Such orders will include specific action to be taken by the user to correct the non-compliance with a time period specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsection (1)(b) of this section.

(5) Administrative order. When the utility director finds that a user has violated or continues to violate the provisions set forth in this chapter, or the order issued thereunder, the utility director may issue an order for compliance to the user responsible for the discharge. Orders may contain any requirements as might be reasonable, necessary, and appropriate to address the non-compliance, including but not limited to the installation of pretreatment technology, additional self-monitoring, and management practices.

(6) Administrative penalty. Notwithstanding any other remedies or procedures available to Henderson Utility Department, any user who is found to have violated any provision of this chapter, or any order issued hereunder, may be assessed an administrative penalty of not to exceed ten thousand dollars (\$10,000.00) per violation. Each day on which non-compliance shall occur or continue shall be deemed a separate and distinct violation. Such assessment may be added to the user's next scheduled sewer service charge and Henderson Utility Department shall have such other collection remedies as are available by law.

(7) Request for hearing and appeal. Any person affected by a penalty, order, or directive of Henderson Utility Department issued pursuant to this chapter may, within ten (10) days of the issuance of such penalty, order, or directive, request a hearing before the board of mayor and aldermen to show cause why such penalty, order, or directive should be modified or made to not apply to such person. Such request shall be in writing to the city recorder. The board of mayor and aldermen shall hold the requested hearing as soon as practical after receiving the request, at which time the person affected, shall have an opportunity to be heard. At the conclusion of the hearing, the city recorder shall issue a written response to the person requesting the hearing affirming, modifying, or rescinding the penalty, order, or directive at issue.

(8) Authorization. The utility director is authorized to promulgate such rules and regulations as shall be reasonable and necessary to carry out the

provisions of this chapter according to its terms and intent. (as added by Ord. #403, June 2005, and replaced by Ord. #420, Feb. 2007)

TITLE 19

ELECTRICITY AND GAS

CHAPTER

1. ELECTRICITY.
2. GAS.

CHAPTER 1

ELECTRICITY¹

SECTION

19-101. To be furnished under franchise.

19-101. To be furnished under franchise. Electricity shall be furnished for the municipality and its inhabitants under such franchise as the governing body shall grant.² The rights, powers, duties, and obligations of the municipality, its inhabitants, and the grantee of the franchise shall be clearly stated in the written franchise agreement which shall be binding on all parties concerned.

¹Municipal code reference
Electrical code: title 12.

²The agreements are of record in the office of the city recorder.

CHAPTER 2

GAS¹

SECTION

- 19-201. Residential and small commercial rates.
- 19-202. Medium commercial rates.
- 19-203. Large commercial rates.
- 19-204. Industrial rates.
- 19-205. Minimum bills.
- 19-206. When penalty added.
- 19-207. Service charges and deposits.
- 19-208. Reconnection charges.
- 19-209. Installation and fees related to new services.
- 19-210. Access to meter, etc.
- 19-211. Classification of natural gas customers.
- 19-212. Billing.

19-201. Residential and small commercial rates. The rates to be charged each user or consumer of natural gas classified as residential, or small commercial inside the corporate limits of Henderson shall be as follows:

| | |
|--|--|
| Minimum bill (includes no gas usage) | \$3.75 |
| All gas usage | Cost of gas including pipeline, inventory, storage and all other related chargers as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department. |

The rates to be charged each user or consumer of natural gas classified as residential, or small commercial outside the corporate limits of Henderson shall be as follows:

| | |
|--|---|
| Minimum bill (includes no gas usage) | \$6.00 |
| All gas usage | Cost of gas including pipeline, inventory, storage and all other related charges as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department. |

¹Municipal code reference
Gas code: title 12.

Where more than one (1) house, building, or housing complex used for living, eating, or sleeping quarters, uses gas through a common meter; or in houses occupied by more than one (1) family and in apartment houses where the gas is measured by a common meter, the minimum monthly bill shall be multiplied by the number of families served through each common meter. The serving of more than one (1) structure through a single meter must have prior written approval of the utility director. Separate houses, multi-family residences, and apartment houses served through a common meter shall be billed under the above rate schedules as if each family unit were separately metered. (1976 Code, § 13-401, as amended by Ord. #263, Dec. 1992, Ord. #271, Aug. 1993, Ord. #353, Nov. 2000, and Ord. #362, Aug. 2001, and replaced by Ord. #372, Dec. 2002, Ord. #384, Sept. 2003, Ord. #399, Nov. 2004, Ord. #406, June 2005, Ord. #422, May 2007, Ord. #444, April 2009, and Ord. #456, June 2010)

19-202. Medium commercial rates. The rates to be charged for each user or consumer of natural gas classified as medium commercial inside the corporate limits shall be as follows:

| | |
|--|---|
| Minimum bill (includes no gas usage) | \$25.00 |
| All gas usage | Cost of gas including pipeline, inventory, storage and all other related charges as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department. |

The rates to be charged each user or consumer of natural gas classified as medium commercial outside the corporate limits shall be as follows:

| | |
|--|---|
| Minimum bill (includes no gas usage) | \$37.00 |
| All gas usage | Cost of gas including pipeline, inventory, storage and all other related charges as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department. |

(1976 Code, § 13-402, as amended by Ord. #263, Dec. 1992, Ord. #271, Aug. 1993, Ord. #353, Nov. 2000, and Ord. #362, Aug. 2001, and replaced by Ord. #372, Dec. 2002, Ord. #384, Sept. 2003 Ord. #399, Nov. 2004, Ord. #406, June 2005, Ord. #422, May 2007, Ord. #444, April 2009, and Ord. #456, June 2010)

19-203. Large commercial rates. The rates to be charged for each user or consumer of natural gas classified as large commercial inside the corporate limits shall be as follows:

| | |
|--|---|
| Minimum bill (includes no gas usage) | \$50.00 |
| All gas usage | Cost of gas including pipeline, inventory, storage and all other related charges as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department. |

The rates to be charged for each user or consumer of natural gas classified as large commercial outside the corporate limits shall be as follows:

| | |
|--|---|
| Minimum bill (includes no gas usage) | \$67.00 |
| All gas usage | Cost of gas including pipeline, inventory, storage and all other related charges as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department. |

(1976 Code, § 13-403, as amended by Ord. #263, Dec. 1992, Ord. #271, Aug. 1993, Ord. #353, Nov. 2000, and Ord. #362, Aug. 2001, and replaced by Ord. #372, Dec. 2002, Ord. #384, Sept. 2003 Ord. #399, Nov. 2004, Ord. #406, June 2005, Ord. #422, May 2007, Ord. #444, April 2009, and Ord. #456, June 2010)

19-204. Industrial rates. The rates to be charged for each user or consumer of natural gas classified as industrial inside the corporate limits shall be as follows:

| | |
|--|---|
| Minimum bill (includes no gas usage) | \$50.00 |
| All gas usage | Cost of gas including pipeline, inventory, storage and all other related charges as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department. |

The rates to be charged for each user or consumer of natural gas classified as industrial outside the corporate limits shall be as follows:

| | |
|--|---------|
| Minimum bill (includes no gas usage) | \$67.00 |
|--|---------|

All gas usage Cost of gas including pipeline, inventory, storage and all other related charges as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department.

Optional industrial rate: Industrial customers, who use at least fifty percent (50%) of their natural gas usage for processing, may contract their natural gas rate under the following rules and terms.

- (1) Request must be made in writing;
- (2) Fifty percent (50%) of their natural gas consumption must be used in their manufacturing process;
- (3) Must remain on this rate for a minimum contract period of twelve (12) months; and
- (4) Customer must understand that if extreme conditions exist that limits the availability of natural gas, said process natural gas consumption would have to be lowered until the situation is normalized.

All gas usage Cost of gas including pipeline, inventory, storage and all other related charges as certified by the utility director and approved by the mayor, plus a markup per MCF set by resolution of the board of aldermen that covers the operations and overhead expenses of the department.

(1976 Code, § 13-404, as amended by Ord. #263, Dec. 1992, and Ord. #271, Aug. 1993, and replaced by Ord. #372, Dec. 2002, Ord. #384, Sept. 2003 Ord. #399, Nov. 2004, Ord. #406, June 2005, Ord. #422, May 2007, Ord. #444, April 2009, and Ord. #456, June 2010)

19-205. Minimum bills. Customers will be charged the minimum of three dollars seventy-five cents (\$3.75) for residential and small commercial inside city, six dollars (\$6.00) for residential and small commercial outside city, twenty-five dollars (\$25.00) for medium commercial inside city, thirty-seven dollars (\$37.00) for medium commercial outside city, fifty dollars (\$50.00) for large commercial/industrial inside city, and sixty-seven dollars (\$67.00) for large commercial/industrial outside city, for each active gas account. This does not include customers who qualify for the Optional Industrial Rate. (1976 Code, § 13-405, as replaced by Ord. #372, Dec. 2002, Ord. #384, Sept. 2003, Ord. #399, Nov. 2004, and Ord. #456, June 2010)

19-206. When penalty added. A ten percent (10%) penalty will be added to all bills that have not been paid prior to the delinquent date of each month that such bills become due. (1976 Code, § 13-406, as replaced by Ord. #372, Dec. 2002)

19-207. Service charges and deposits. (1) A nonreturnable service charge will be charged on each utility service turned on in the amount of fifty dollars (\$50.00). The same charge will apply whether the service is gas only, water only, sewer only, sanitation only or any combination of the services listed.

(2) In addition to the service charges in (1), a refundable deposit shall be collected

- (a) From each residential rental customer,
- (b) From all commercial/industrial customers and
- (c) From any customer, including a residential homeowner that has been disconnected due to non-payment of any utility account.

The deposit for a residential homeowner that has been disconnected due to non-payment may be waived by the utility director or his/her designate if the customer has not been disconnected for non-payment within the past twenty-four (24) months. The amount of the deposit shall be one hundred twenty five dollars (\$125.00) for each residential gas service and two hundred fifty dollars (\$250.00) for all commercial/industrial gas services. This deposit shall be refunded to the customer only after all amounts due the utility department are paid in full.

Service installation for an old customer at a new location or at the same location after being terminated for non-payment will be handled as a new customer and said customer will be charged the service charges and deposits set forth above. (1976 Code, § 13-407, as replaced by Ord. #372, Dec. 2002, Ord. #384, Sept. 2003, Ord. #385, Oct. 2003, Ord. #408, Sept. 2005, and Ord. #507, March 2018 *Ch3_08-12-21*)

19-208. Reconnection charges. Whenever water/sewer and/or natural gas service has been discontinued for non-payment, a reconnection charge of fifty dollars (\$50.00) shall be collected by the city before service is restored. The reconnection fee shall be waived for customers who qualify for utility payment assistance through the Helping Hands Program. (1976 Code, § 13-408, as replaced by Ord. #372, Dec. 2002, and Ord. #444, April 2009)

19-209. Installation and fees related to new services. Customers who make application for a new gas service will be furnished said gas service line at the cost of three dollars (\$3.00) per foot (measured from the gas main to the meter). This fee may be waived or reduced under policies or programs approved by the city board to increase the usage of natural gas from time to time. If any gas service requires a meter larger than a R275 residential type meter, the customer shall pay the cost of the larger meter. All gas service lines including the meter, regulator and cut-off are to be installed by the city and at the discretion or insistence of the city. All gas service lines, meters, regulators and cut-offs shall remain the property of the city. (1976 Code, § 13-409, as replaced by Ord. #372, Dec. 2002, Ord. #435, Oct. 2007, and Ord. #543, Aug. 2021 *Ch3_08-12-21*)

19-210. Access to meter, etc. The application for service shall include a permit from the customer allowing the official employees of the City of Henderson Gas Department access to the meter, regulator, and service line. All lines, regardless of how installed, up to and including the meter shall be the property of the City of Henderson Gas Department. (Ord. #264, Jan. 1993, as replaced by Ord. #372, Dec. 2002)

19-211. Classification of natural gas customers. Natural gas customers shall be placed in one of five classifications as determined by the use of the structure served by natural gas and by the size of the natural gas meter. The five classifications are as follows.

| | | |
|--------------------------|---|---|
| <u>Residential Class</u> | - | All dwellings used for primary residences only, regardless of meter size. |
| <u>Small Commercial</u> | - | Customers other than residential using up to a 750 Meter. |
| <u>Medium Commercial</u> | - | Customers other than residential using a 800 thru 2500 Meter. |
| <u>Large Commercial</u> | - | Customers other than residential using over a 2500 Meter. |
| <u>Industrial</u> | - | Industrial structures used for manufacturing, warehousing, etc.; using over a 2500 Meter. (as added by Ord. #372, Dec. 2002) Bills for residential natural gas service will be rendered monthly. Bills for commercial and industrial service may be rendered weekly, semimonthly, or monthly at the option of the city. |

19-212. Billing. Charges for utility service(s) shall be collected as a unit; no employee shall accept payment for any service without receiving at the same time payment for all services owed by the customer to the city. All services shall be discontinued for non-payment of the combined bill.

Utility bills must be paid on or before the discount date shown thereon to obtain the net rate, otherwise the gross rate shall apply. Failure to receive a bill will not release a customer from payment obligation, nor extend the discount date.

If a meter fails to register properly, or if a meter is removed to be tested or repaired, or if gas is received other than through a meter, the city reserves the right to render an estimated bill based on the best information available. Detailed "utility billing/collection policies and procedures" shall be approved by the board of mayor and aldermen by resolution from time to time. (as added by Ord. #507, March 2018 *Ch3_08-12-21*)

TITLE 20

MISCELLANEOUS

CHAPTER

1. CIVIL EMERGENCIES.
2. JOINT CIVIL DEFENSE ORGANIZATION.

CHAPTER 1

CIVIL EMERGENCIES¹

SECTION

- 20-101. "Civil emergency" and "curfew" defined.
 20-102. Proclamation of civil emergency.
 20-103. Curfew authorized.
 20-104. Authority to issue other orders.
 20-105. Exceptions to curfew.
 20-106. Violation of orders.

20-101. "Civil emergency" and "curfew" defined. (1) A "civil emergency" is defined to be:

(a) A riot or unlawful assembly characterized by the use of actual force or violence or a threat to use force if accompanied by the immediate power to execute by three (3) or more persons acting together without authority of law.

(b) Any natural disaster or man-made calamity including but not limited to flood, conflagration, cyclone, tornado, earthquake, or explosion within the geographic limits of a municipality resulting in the death or injury of persons, or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

(c) The destruction of property, or the death or injury of persons brought about by the deliberate acts of one or more persons acting either alone or in concert with others when such acts are a threat to the peace of the general public or any segment thereof.

(2) "Curfew" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the municipality except persons officially designated to duty with reference to said

¹State law reference

Tennessee Code Annotated, title 38, chapter 9.

civil emergency or those lawfully on the streets as defined hereinafter. (1976 Code, § 1-1101)

20-102. Proclamation of civil emergency. When, in the judgement of the mayor, a civil emergency as defined herein is determined to exist, he shall forthwith proclaim in writing the existence of same, a copy of which proclamation will be filed with the recorder. (1976 Code, § 1-1102)

20-103. Curfew authorized. After proclamation of a civil emergency by the mayor, he may order a general curfew applicable to such geographical areas of the municipality or to the municipality as a whole, as he deems advisable, and applicable during which hours of the day or night as he deems necessary in the interest of the public safety and welfare. Said proclamation and general curfew shall have the force and effect of law and shall continue in effect until rescinded in writing by the mayor, but not to exceed fifteen (15) days. (1976 Code, § 1-1103)

20-104. Authority to issue other orders. After proclamation of a civil emergency the mayor may, at his discretion, in the interest of public safety and welfare:

- (1) Order the closing of all retail liquor stores.
- (2) Order the closing of all establishments wherein beer or alcoholic beverages are served.
- (3) Order the closing of all private clubs or portions thereof whereon the consumption of intoxicating liquor and/or beer is permitted.
- (4) Order the discontinuance of the sale of beer.
- (5) Order the discontinuance of selling, distribution, or giving away of gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.
- (6) Order the closing of gasoline stations, and other establishments, the chief activity of which is the sale, distribution or dispensing of liquid flammable or combustible products.
- (7) Order the discontinuance of selling, distributing, dispensing or giving away any firearms or ammunition of any character whatsoever.
- (8) Order the closing of any or all establishments or portions thereof, the chief activity of which is the sale, distribution, dispensing or giving away of firearms and/or ammunition.
- (9) Issue such other orders as are necessary for the protection of life and property. (1976 Code, § 1-1104)

20-105. Exceptions to curfew. Any curfew as defined hereby shall not apply to persons lawfully on the streets and public places during a civil emergency who have obtained permission of the local chief of police or other law enforcement officer then in charge of municipal law enforcement which

permission shall be granted on good cause shown. This curfew also shall not apply to medical personnel in the performance of their duties. (1976 Code, § 1-1105)

20-106. Violation of orders. Any person violating the provisions of orders issued by the mayor pursuant to the authorization of Tennessee Code Annotated, title 38, chapter 9, and this chapter during a proclaimed civil emergency shall be guilty of a misdemeanor. (1976 Code, § 1-1106)

CHAPTER 2

JOINT CIVIL DEFENSE ORGANIZATION¹

SECTION

20-201. Creation.

20-202. Authority and responsibilities.

20-203. Office of director, his authority and responsibility.

20-204. Civil defense corps.

20-205. No municipal or private liability.

20-206. Expenses of civil defense.

20-201. Creation. There is hereby created the City of Henderson, Chester County Civil Defense Organization, which shall be a joint operation by the City of Henderson and the County of Chester, for the purpose of organizing and directing civil defense for the citizens of the entire county. All other civil defense agencies within the corporate limits of Henderson and Chester County shall be considered as a total part of the county-wide civil defense emergency resources and when such agencies operate out of its corporate limits it shall be at the direction of, subordinate to, and as a part of the City of Henderson, Chester County Civil Defense Organization. (1976 Code, § 1-1001)

20-202. Authority and responsibilities. (1) Authority. In accordance with federal and state enactments of law, the City of Henderson, Chester County Civil Defense Organization is hereby authorized to assist the regular government of the county, and governments of all political subdivisions therein, as may be necessary due to enemy caused emergencies or natural disasters, including but not limited to: storms, floods, fires, explosions, tornadoes, hurricanes, droughts, or peace-time man-made disasters, which might occur affecting the lives, health, safety, welfare, and property of the citizens of Chester County. The City of Henderson, Chester County Civil Defense Organization is hereby authorized to perform such duties and functions as may be necessary on account of said disasters. The City of Henderson, Chester County Civil Defense Organization is hereby designated the official agency to assist regular forces in times of said emergencies.

(2) Responsibilities. The City of Henderson, Chester County Civil Defense Organization shall be responsible for preparation and readiness against enemy caused and natural emergencies arising in Chester County, to establish and coordinate emergency plans, forces, means and resources, and is hereby

¹State law reference

Tennessee Code Annotated, title 58, chapter 2.

designated the official agency to establish such emergency plans. (1976 Code, § 1-1002)

20-203. Office of director, his authority and responsibility.

(1) Primary authority. The office of the director of civil defense is hereby created. The director shall have the authority to request the declaration of the existence of an emergency by the mayor and county judge, or either, or by higher authority as appropriate.

The director shall have overall responsibility for the preparation of all plans and for recruitment and training of personnel. All local civil defense plans will be in consonance with state plans and shall be approved by the state civil defense office.

The director is hereby given the authority to delegate such responsibility and authority as is necessary to carry out the purposes of this chapter, subject to the approval of the chief executive officers of the city and county.

(2) Responsibility of the director. The director shall be responsible to the chief executive officers of the city and county for the execution of the authorities, duties, and responsibilities of the City of Henderson, Chester County Civil Defense Organization for the preparation of all plans and administrative regulations and for recruitment and training of personnel. (1976 Code, § 1-1003)

20-204. Civil defense corps. The City of Henderson, Chester County Civil Defense Corps is hereby created. The corps shall be under the direction of the director of civil defense and his staff members with delegated authority; it shall consist of designated regular government employees and volunteer workers. Duties and responsibilities of the corps members shall be outlined in the civil defense emergency plan. (1976 Code, § 1-1004)

20-205. No municipal or private liability. The adoption and implementation of the provisions in this chapter is an exercise by the city and county of their governmental functions for the protection of the public peace, health, and safety and neither the City of Henderson nor Chester County, the agents and representatives of said city and county, nor any individual, receiver, firm, partnership, corporation, association of trustee, nor any of the agents thereof, in good faith carrying out, complying with, or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this chapter shall be liable for any damage sustained to any person or property as the result of said activity. Any person owning or controlling real estate or other premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack, shall together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other

permission or for loss of, or damage to, the property of such person. (1976 Code, § 1-1005)

20-206. Expenses of civil defense. No person shall have the right to expend any public funds of the city or county in carrying out any civil defense activities authorized by this chapter without prior approval by the governing bodies of the city and/or county or both; nor shall any person have any right to bind the city or county by contract, agreements or otherwise without prior and specific approval by the governing bodies of the city and/or county, or both. The civil defense director shall disburse such monies as may be provided annually by appropriation of the city and county for the operation of the civil defense organization. Control of disbursements will be as prescribed by agreement between the treasurers of the city and county. The director shall be responsible for the preparation and submission of a budget with recommendations as to its adoption by the city and county. All funds shall be disbursed upon vouchers properly executed by the director of civil defense, subject to audit by either the City of Henderson or Chester County. The civil defense director is hereby authorized to accept federal contributions in money, equipment, or otherwise when available, or state contributions, and is further authorized to accept contributions to the civil defense organization from individuals and other organizations, such funds becoming liable for audit by the city and county. (1976 Code, § 1-1006)

ORDINANCE NO. 340**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF HENDERSON TENNESSEE.**

WHEREAS some of the ordinances of the City of Henderson are obsolete, and

WHEREAS some of the other ordinances of the City are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the City of Henderson, 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 "Henderson Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF HENDERSON, TENNESSEE, THAT:

Section 1. Ordinances codified. The ordinances of the city of a general, continuing, and permanent application or of a penal nature, as codified and revised in the following "titles," namely "titles" 1 to 20, both inclusive, are ordained and adopted as the "Henderson 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 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 five hundred dollars (\$500.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."¹

When a civil penalty is imposed on any person for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see Tennessee Code Annotated, § 40-24-101 et seq.

civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

Each day any violation of the municipal code continues shall constitute a separate civil offense.

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to 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.

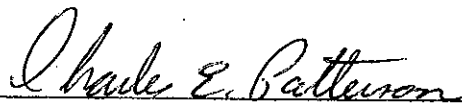
Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

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.

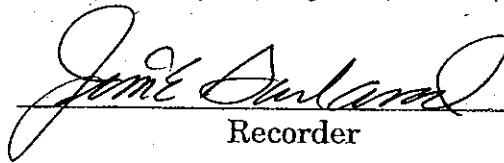
Passed 1st reading, MARCH 9, 2000.

Passed 2nd reading, APRIL 13, 2000.

Passed 3rd reading, APRIL 13, 2000.



Mayor



Recorder