THE **HORNBEAK MUNICIPAL CODE**

Prepared by the





August 2024

TOWN OF HORNBEAK, TENNESSEE

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PREFACE¹

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

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

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

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

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

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

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

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

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

Abb Oglesby Legal Program Manager

ORDINANCE ADOPTION PROCEDURES PRESCRIBED BY THE TOWN CHARTER

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

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

All duly enacted ordinances and this charter shall be compiled in a well bound volume(s) to be known as the "Hornbeak Municipal Code."

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GENERAL ADMINISTRATION¹

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- 1. GOVERNING BODY.
- 2. MAYOR.
- 3. RECORDER.
- 4. CODE OF ETHICS.

CHAPTER 1

GOVERNING BODY

SECTION

- 1-101. Time and place of regular meetings.
- 1-102. Order of business.
- 1-103. General rules of order.
- **1-101.** <u>Time and place of regular meetings</u>. The governing body shall hold regular monthly meetings on the second Tuesday of each month at the town hall. The time of the board meetings will be 5:00 P.M. year round. (Ord. #22-03, July 2022)
- **1-102.** <u>Order of business</u>. At each regular meeting of the governing body, 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.

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

Municipal code references

Fire department: title 7.

Utilities: title 18.

Wastewater treatment: title 18.

Zoning: title 14.

¹Charter references

- $\begin{tabular}{ll} (6) & Reports from committees, members of the governing body and other officers. \end{tabular}$
 - (7) Old business.
 - (8) New business.
 - (9) Adjournment. (1997 Code, § 1-102)

1-103. Rules of order. The rules of order and parliamentary procedure *Robert's Rules of Order, Newly Revised*, current edition, shall govern the transaction of business by and before the governing body 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. (1997 Code, § 1-103)

MAYOR¹

SECTION

- 1-201. Generally supervises municipality's affairs.
- 1-202. Executes municipality's contracts.
- 1-203. Vice-mayor; appointment and duties.
- **1-201.** Generally supervises municipality'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. (1997 Code, § 1-201)
- **1-202.** Executes municipality's contracts. The mayor shall execute all contracts as authorized by the governing body. (1997 Code, § 1-202)
- **1-203.** <u>Vice-mayor</u>; <u>appointment and duties</u>. (1) The vice-mayor will be appointed by the newly elected governing body at first meeting.
 - (2) The vice-mayor will be a member of the governing body.
- (3) His duties will be the same as the mayor, when the mayor is absent. (1997 Code, § 1-203)

¹Charter references: §§ 5, 7, 8, and 14.

RECORDER¹

SECTION

- 1-301. To be bonded.
- 1-302. To keep minutes, etc.
- 1-303. To perform general administrative duties, etc.
- **1-301.** To be bonded. The recorder shall be bonded in such sum as may be fixed by, and with such surety as may be acceptable to, the governing body. (1997 Code, § 1-301)
- **1-302.** <u>To keep minutes, etc</u>. The recorder shall keep the minutes of all meetings of the governing body and shall preserve the original copy of all ordinances in a separate ordinance book. (1997 Code, § 1-302)
- 1-303. <u>To perform general administrative duties, etc.</u> The recorder shall perform all administrative duties for the governing body and for the municipality which are not assigned by the charter, this code, or the governing body to another corporate officer. The recorder shall also have custody of and be responsible for maintaining all corporate bonds, records, and papers in such fireproof vault or safe as the municipality shall provide. (1997 Code, § 1-303)

¹Charter reference: § 15.

CODE OF ETHICS¹

SECTION

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

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

Campaign finance: Tennessee Code Annotated, title 2, ch. 10.

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

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

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

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

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

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

- 1-401. <u>Applicability</u>. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.
- **1-402. Definition of "personal interest**." (1) For purposes of §§ 1-403 and 1-404, "personal interest" means:
 - (a) Any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or
 - (b) Any financial, ownership, or employment interest in a matter to be regulated or supervised; or
 - (c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), step parent(s), grandparent(s), sibling(s), child(ren), or step child(ren).
- (2) The words "employment interest" include a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.
- (3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.
- 1-403. <u>Disclosure of personal interest by official with vote</u>. 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 himself¹ from voting on the measure.
- 1-404. Disclosure of personal interest in non-voting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

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

- **1-405.** Acceptance of gratuities, etc. An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:
- (1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or
- (2) That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.
- **1-406.** <u>Use of information</u>. (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.
- 1-407. <u>Use of municipal time, facilities, etc.</u> (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
- (2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality.
- **1-408.** Use of position or authority. (1) An official or employee may not make or attempt to make private purchases, for cash or otherwise, in the name of the municipality.
- (2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the municipality.
- **1-409.** Outside employment. An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.
- 1-410. <u>Ethics complaints</u>. (1) The town attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.
 - (2) (a) Except as otherwise provided in this subsection, the town attorney shall investigate any credible complaint against an appointed

official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics.

- (b) The town attorney may request the governing body to hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interests in a particular matter.
- (c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the town attorney or another individual or entity chosen by the governing body.
- (3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.
- (4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.
- 1-411. <u>Violations and penalty</u>. 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.

BOARDS AND COMMISSIONS, ETC.

CHAPTER

1. PARK AND RECREATION BOARD.

CHAPTER 1

PARK AND RECREATION BOARD

SECTION

- 2-101. Park and recreation board.
- 2-102. Procedure for meetings.
- **2-101.** Park and recreation board. The board shall consist of five (5) members to be appointed by the Mayor of Hornbeak and confirmed by a majority vote by the governing body, all of whom shall serve without pay. The term of office of the said five (5) members shall be of such length and so arranged that the term of the chairman, as appointed by the governing body, shall expire in three (3) years, two (2) other park and recreation board members shall expire in two (2) years, and the other in one (1) year, among these members shall a secretary and treasurer by chosen by a majority vote. (Ord. #2006-01, March 2006)
- **2-102.** Procedure for meetings. Meetings of the Hornbeak Park and Recreation Board shall be held quarterly at the Hornbeak Town Hall and at such times the chairman and board may determine. All meetings of the board and action thereon shall be a public record. Any decisions or recommendations that the Hornbeak Park and Recreation Board shall reach will then be presented to the board of mayor and aldermen for final approval by a majority vote.

Three (3) members of the Hornbeak Park and Recreation Board shall constitute a quorum. (Ord. #2006-01, March 2006)

MUNICIPAL COURT

CHAPTER

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

CHAPTER 1

TOWN JUDGE

SECTION

3-101. Town judge.

3-101. <u>Town judge</u>. The officer designated by the charter to handle judicial matters within the municipality shall preside over the town court and shall be known as the town judge. (1997 Code, § 3-101)

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. Contempt of court.
- 3-205. Trial and disposition of cases.
- 3-206. Court cost.
- **3-201.** Maintenance of docket. The court clerk shall keep a complete docket of all matters coming before the town judge in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; and all other information that may be relevant. (1997 Code, § 3-201, modified)
- **3-202.** <u>Imposition of fines, penalties, and costs</u>. All fines, penalties and costs shall be imposed by the town judge and recorded by the town clerk on the town court docket in open court.

In all cases heard or determined by him, the town judge shall tax in the bill of costs the same amounts and for the same items allowed in courts of general sessions¹ for similar work in state cases.

In addition, pursuant to authority granted in *Tennessee Code Annotated*, § 67-4-601, the court shall levy a local litigation tax in the amount of thirteen dollars and seventy-five cents (\$13.75) in all cases on which state litigation tax is levied. (1997 Code, § 3-202, modified)

3-203. Disposition and report of fines, penalties, and costs. All funds coming into the hands of the town judge in the form of fines, penalties, costs, and forfeitures shall be recorded by him and paid over daily to the municipality. At the end of each month he shall submit to the governing body 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. (1997 Code, § 3-203)

Tennessee Code Annotated, § 8-21-401.

¹State law reference

- **3-204.** Contempt of court. Contempt of court is punishable by a fine of fifty dollars (\$50.00), or such lesser amount as may be imposed in the judge's discretion.
- **3-205.** Trial and disposition of cases. Every person charged with violating a municipal ordinance shall be entitled to an immediate trial and disposition of his case, provided the town court is in session or the town judge is reasonably available. However, the provisions of this section shall not apply when the alleged offender, by reason of drunkenness or other incapacity, is not in a proper condition or is not able to appear before the court. (1997 Code, § 3-205)
- **3-206.** <u>Court cost</u>. A cost of thirty-five dollars (\$35.00) will be assessed to each person coming before the Town of Hornbeak Municipal Court for the violation of any laws of said town, State of Tennessee, County of Obion, authorized by *Tennessee Code Annotated* to be heard by this court.

Appearance before this court means, "any offense not resolved prior to court date." (1997 Code, § 3-206)

SUMMONSES AND SUBPOENAS

SECTION

- 3-301. Issuance of summonses.
- 3-302. Issuance of subpoenas.
- 3-301. <u>Issuance of summonses</u>. When a complaint of an alleged ordinance violation is made to the town judge, the judge may, in his discretion, issue a summons ordering the alleged offender personally to appear before the town court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the town court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal.
- **3-302.** <u>Issuance of subpoenas</u>. The town judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith.

BONDS AND APPEALS

SECTION

- 3-401. Appearance bonds authorized.
- 3-402. Appeals.
- 3-403. Bond amounts, conditions, and forms.
- **3-401.** Appearance bonds authorized. When the town judge is not available or when an alleged offender requests and has reasonable grounds for a delay in the trial of his case, he may, in lieu of remaining in jail pending disposition of his case, be allowed to post an appearance bond with the town judge or, in the absence of the judge, with the ranking police officer on duty at the time, provided such alleged offender is not drunk or otherwise in need of protective custody. (1997 Code, § 3-401)
- **3-402.** Appeals. Any defendant who is dissatisfied with any judgment of the town court against him may, within ten (10) days next after such judgment is rendered, appeal to the next term of the circuit court upon posting a proper appeal bond. (1997 Code, § 3-402)
- 3-403. Bond amounts, conditions, and forms. An appearance bond in any case before the town court shall be in such amount as the town judge shall prescribe and shall be conditioned that the defendant shall appear for trial before the town court at the stated time and place. An appeal bond in any case shall be in the sum of two hundred 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. (1997 Code, § 3-403)

¹State law reference Tennessee Code Annotated, § 27-5-101.

MUNICIPAL PERSONNEL

CHAPTER

- 1. PERSONNEL REGULATIONS.
- 2. TRAVEL REIMBURSEMENT REGULATIONS.

CHAPTER 1

PERSONNEL REGULATIONS

SECTION

4-101. Personnel rules and regulations.

4-101. Personnel rules and regulations.¹ The personnel rules and regulations for the Town of Hornbeak are adopted herein as if set out verbatim in the employee handbook.

¹The Personnel Rules and Regulations for the Town of Hornbeak, as amended from time to time, are available in the office of the recorder.

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-201. Purpose.
- 4-202. Enforcement.
- 4-203. Travel policy.
- 4-204. Travel reimbursement rate schedules.
- 4-205. Administrative procedures.
- **4-201. Purpose**. The purpose of this ordinance and referenced regulations is to bring the city into compliance with *Tennessee Code Annotated*, § 6-54-901--907. This law 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 ordinance 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. #24-06, July 2024)

- **4-202. Enforcement**. The Chief Administrative Officer (CAO) of the city or his or her designee shall be responsible for the enforcement of these travel regulations. (Ord. #24-06, July 2024)
- 4-203. <u>Travel policy</u>. (1) In the interpretation and application of this ordinance, 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 ordinance. "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.
- (2) 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 CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

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

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

- (4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.
- (5) The travel expense reimbursement form will be used to document all expense claims.
 - (6) To qualify for reimbursement, travel expenses must be:
 - (a) Directly related to the conduct of the city business for which travel was authorized; and
 - (b) Actual, reasonable and necessary under the circumstances. The CAO may make exceptions for unusual circumstances. Expenses considered excessive will not be allowed.
- (7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee and other reimbursable costs.
- (8) Any person attempting to defraud the city or misuse city travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.
- (9) Mileage and motel expenses incurred within the city are not ordinarily considered eligible expenses for reimbursement. (Ord. #24-06, July 2024)
- **4-204.** Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The city's travel reimbursement rates will automatically change when the state rates are adjusted.

The municipality may pay directly to the provider for expenses such as meals, lodging and registration fees for conferences, conventions, seminars and other education programs. (Ord. #24-06, July 2024)

4-205. Administrative procedures. The city adopts and incorporates by reference -- as if fully set out herein -- the administrative procedures submitted by MTAS to, and approved by letter by, the Comptroller of the

Treasury, State of Tennessee. A copy of the administrative procedures is on file in the office of the city recorder. (Ord. #24-06, July 2024)

¹State law reference

Tennessee Code Annotated, § 6-54-904, requires a municipality to notify the comptroller in writing that it has adopted the MTAS policy, including the date of such adoption.

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for town funds.
- 5-102. Delinquent taxes; goods and chattels.
- 5-103. Capital assets.
- **5-101.** Official depository for town funds. The Security Bank of Union City, Tennessee, is hereby designated as the official depository for all municipal funds. (1997 Code, § 5-101, modified)
- **5-102.** Delinquent taxes; goods and chattels. Pursuant to § 35 of the town charter for the Town of Hornbeak and *Tennessee Code Annotated*, § 67-5-2005(d), the collection of delinquent taxes is hereby authorized by distress warrants issued by the mayor for the sale of goods and chattels to be executed by any police officer of the town under the laws governing execution of such process; or by the county trustee as provided by general law; or by the town attorney acting in accordance with general laws providing for the collection of delinquent town or county taxes; by garnishments; by suits in chancery; or by any two (2) or more of the foregoing methods, or by the use of any other available legal processes and remedies. (1997 Code, § 5-102)
- **5-103.** <u>Capital assets</u>. (1) <u>Capitalization thresholds</u>. Town assets with an estimated useful life of two (2) years or more and which meet the following thresholds will be capitalized:

Equipment (other than sewer equipment) -\$5,000.00 Improvements, infrastructure, buildings -\$10,000.00 Sewer system -\$3,000.00

¹Charter references: §§ 31, 33-37.

Land and construction in progress are capitalized but not depreciated. The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend asset lives are not capitalized:

- (2) Asset cost basis. Capital assets shall be recorded at historical cost when the cost is reasonably determinable. If historical cost data is not determinable, an estimated historical cost will be used. (a) Actual cost. This cost will include the purchase or construction cost (which can be obtained through invoice, purchase order, and paid check files) and charges necessary to place the asset into service at its intended location. Such necessary costs may include costs such as freight and transportation, site preparation expenditures, interest costs, professional fees, and legal claims directly attributable to asset acquisition.
- (b) Estimated cost. This cost will be based on as much documentary evidence as can be found to support the cost, such as interviews with vendors selling such assets, engineers, or other personnel and price level adjustments based on the consumer price index for each asset.
- (c) Donated cost. These assets will be based on their estimated fair market value at time of acquisition. A determination as to the fair market value basis will be included with property records.
- (d) Interest on debt issued. Interest on debt issued for the construction of an asset will be capitalized as part of the asset's cost to the extent of the interest that was incurred during the construction period only.
- (3) <u>Depreciation</u>. (a) Depreciation is a method for allocating the cost of capital assets over their useful lives. Generally accepted accounting principles dictate that the value of the capital asset must be written off as an expense over the useful life of the asset.
- (b) Annual depreciation expense will be calculated using the straight-line method.
- (c) When the asset is disposed of, the actual date of disposal is disregarded, and the disposal date is the end of the month prior to the month of disposal (i.e., no depreciation is taken for the month of disposal).
- (d) The salvage value of an asset is an estimate made by management of what the value of an asset will be at the end of its useful life. If the town intends to utilize a capital asset until it is literally worthless, a salvage value of zero (0) will be assigned.
- (4) <u>Useful lives of capital assets</u>.

Asset Type

Useful Life in Years

Land and easements

No depreciation

Buildings

Asset Type	<u>Useful Life in Years</u>
Park improvements	10
Furniture and equipment	5-7
Vehicles	5-7
Sewer system:	
Buildings (office and plant)	30-50
Equipment and tools	10-15
Furniture and fixtures	5-10
Machinery, equipment and service vehicles	5-15
Pumps and treatment equipment	15-20
Grinder pumps	20
Transportation equipment	5-10
Wastewater (sewer) system	40-50

REAL PROPERTY TAXES

SECTION

5-201. When due and payable.

5-202. When delinquent - penalty and interest.

5-201. When due and payable. Taxes levied by the municipality against real property shall become due and payable annually on the first Monday of October of the year for which levied. (1997 Code, § 5-201)

5-202. When delinquent - penalty and interest.² All real property taxes shall become delinquent on and after the first day of March next after they become due and payable and shall thereupon be subject to a penalty of one and one-half percent (1 1/2%) per month thereafter and such other penalties as are prescribed by state law for delinquent county real property taxes.³ (1997 Code, § 5-202)

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. If a municipality collects its own property taxes, tax due and delinquency dates are as prescribed by the charter; if the county trustee collects them, the tax due date is the first Monday in October, and the delinquency date is the following March 1.

²Charter and state law reference

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

³Charter and state law references

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

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

¹State law references

WHOLESALE BEER TAX

SECTION

5-301. To be collected.

5-301. <u>To be collected</u>. The recorder is hereby directed to take appropriate action to assure payment to the municipality of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in *Tennessee Code Annotated*, title 57, chapter 6. (1997 Code, § 5-301)

¹State law reference

Tennessee Code Annotated, title 57, chapter 6 provides for a tax in accordance with § 57-6-103. Every wholesaler is required to remit to each municipality the amount of the net tax on beer wholesale sales to retailers and other persons within the corporate limits of the municipality.

Municipal code references

Alcohol and beer regulations: title 8.

Beer privilege tax: § 8-208.

PURCHASING

SECTION

5-401. Purchasing limit.

5-401. Purchasing limit. The maximum amount for purchases without public advertisement and competitive bidding is hereby set to ten thousand dollars (\$10,000.00). (Ord. #21-02, May 2021)

LAW ENFORCEMENT¹

CHAPTER

- 1. POLICE DEPARTMENT.
- 2. ARREST PROCEDURES.
- 3. CITATIONS, WARRANTS, AND SUMMONSES.

CHAPTER 1

POLICE DEPARTMENT

SECTION

- 6-101. Police officers subject to chief's orders.
- 6-102. Police officers to preserve law and order, etc.
- 6-103. Police department records.
- **6-101.** Police officers subject to chief's orders. All police officers shall obey and comply with such orders and administrative rules and regulations as the police chief may officially issue.
- **6-102.** Police officers to preserve law and order, etc. Police officers shall preserve law and order within the town. They shall patrol the town and shall assist the town court during the trial of cases. Police officers shall also promptly serve any legal process issued by the town court.
- **6-103.** Police department records. The police department shall keep a comprehensive and detailed daily record, in permanent form, showing at a minimum:
- (1) All known or reported offenses and/or crimes committed within the corporate limits.
 - (2) All arrests made by police officers.
- (3) All police investigations made, processions assisted, convoyed, fire calls answered, and other miscellaneous activities of the police department.
- (4) Any other records required to be kept by the board of mayor and aldermen or by law.

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

¹Municipal code references

[&]quot;Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004:" title 7, chapter 3, footnote 1.

The police chief shall be responsible for ensuring that the police department complies with the section.

ARREST PROCEDURES

SECTION

- 6-201. When police officers to make arrests.
- 6-202. Disposition of persons arrested.
- **6-201.** When police officers to make arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a police officer in the following cases:
- (1) Whenever he is in possession of a warrant for the arrest of the person.
- (2) Whenever an offense is committed or a breach of the peace is threatened in the officer's presence by the person.
- (3) Whenever a felony has in fact been committed and the officer has probable cause to believe the person has committed it.
- **6-202.** <u>Disposition of persons arrested</u>. A person arrested for a felony or a misdemeanor shall be disposed of in accordance with applicable federal and state law and the rules of the rules of the court of competent jurisdiction.

Issuance of citation in lieu of arrest in traffic cases: title 15, chapter 7.

¹Municipal code reference

CITATIONS, WARRANTS, AND SUMMONSES

SECTION

6-301. Citations in lieu of arrest in non-traffic cases.

6-302. Summonses in lieu of arrest.

6-301. Citations in lieu of arrest in non-traffic cases.¹ Pursuant to Tennessee Code Annotated, § 7-63-101, et seq., the board of mayor and aldermen appoints the _____ in the fire department and the ____ in the building department special police officers having the authority to issue citations in lieu of arrest. The ____ in the fire department shall have the authority to issue citations in lieu of arrest for violations of the fire code adopted in title 7, chapter 2 of this municipal code of ordinances. The ____ in the building department shall have the authority to issue citations in lieu of arrest for violations of the building, utility and housing codes adopted in title 12 of this municipal code of ordinances.

The citation in lieu of arrest shall contain the name and address of the person being cited and such other information necessary to identify and give the person cited notice of the charges against him, and state a specific date and place for the offender to appear and answer the charges against him. The citation shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the special officer in whose presence the offense was committed shall immediately arrest the offender and dispose of him in accordance with *Tennessee Code Annotated*, § 7-63-104.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the citation in lieu of arrest was issued.

6-302. Summonses in lieu of arrest. Pursuant to Tennessee Code Annotated, § 7-63-201, et seq., which authorizes the board of mayor and aldermen to designate certain town enforcement officers the authority to issue ordinance summonses in the areas of sanitation, litter control and animal control, the board designates the _____ in the _____ department and the _____ in the _____ department to issue ordinance summonses in those areas. These enforcement officers may not arrest violators or issue citations in lieu of arrest, but upon witnessing a violation of any ordinance, law or

Issuance of citations in lieu of arrest in traffic cases: title 15, chapter 7.

¹Municipal code reference

regulation in the areas of sanitation, litter control or animal control, may issue an ordinance summons and give the summons to the offender.

The ordinance summons shall contain the name and address of the person being summoned and such other information necessary to identify and give the person summoned notice of the charge against him, and state a specific date and place for the offender to appear and answer the charges against him.

The ordinance summons shall also contain an agreement to appear, which shall be signed by the offender. If the offender refuses to sign the agreement to appear, the enforcement officer in whose presence the offense occurred may:

- (1) Have a summons issued by the clerk of the town court; or
- (2) May seek the assistance of a police officer to witness the violation.

The police officer who witnesses the violation may issue a citation in lieu of arrest for the violation, or arrest the offender for failure to sign the citation in lieu of arrest. If the police officer makes an arrest, he shall dispose of the person arrested as provided in § 6-301 above.

It shall be unlawful for any person to violate his agreement to appear in court, regardless of the disposition of the charge for which the ordinance summons was issued.

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

- 1. FIRE CODE.
- 2. FIRE DEPARTMENT.
- 3. FIRE SERVICE OUTSIDE TOWN LIMITS.
- 4. FIREWORKS.

CHAPTER 1

FIRE CODE

SECTION

- 7-101. Fire code adopted.
- 7-102. Enforcement.
- 7-103. Modifications.
- 7-104. Gasoline trucks.
- 7-105. Variances.
- 7-106. Available in recorder's office.
- 7-107. Violations and penalty.
- **7-101.** Fire code adopted. Pursuant to authority granted by *Tennessee Code Annotated*, §§ 6-54-501 to 6-54-506, and for the purpose of providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures, and premises, and to provide safety to fire fighters and emergency responders during emergency operations, the *International Fire Code*, 2021 edition, and all subsequent amendments or additions to said code, as prepared and adopted by the International Code Council, is hereby adopted and incorporated by reference as a part of this code as fully as if copied herein verbatim, and is hereinafter referred to as the fire code. Said fire code is shall be controlling within the corporate limits.
- **7-102.** Enforcement. The fire code herein adopted by reference shall be enforced by the chief of the fire department. He shall have the same powers as the state fire marshal.

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

(1)_				
	(2)			

7-103. Modifications. The fire code herein adopted is modified by:

- **7-104.** <u>Gasoline trucks</u>. No person shall operate or park any gasoline tank truck within the central business district or within any residential area at any time except for the purpose of and while actually engaged in the expeditious delivery of gasoline.
- **7-105.** <u>Variances</u>. The chief of the fire department may recommend to the board of mayor and aldermen variances from the provisions of the fire code upon application in writing by any property owner or lessee, or the duly authorized agent of either, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such variances when granted or allowed shall be contained in a resolution of the board of mayor and aldermen.
- **7-106.** Available in recorder's office. Pursuant to the requirements of the *Tennessee Code Annotated*, § 6-54-502, one (1) copy of the fire code has been placed on file in the recorder's office and shall be kept there for the use and inspection of the public.
- **7-107.** <u>Violations and penalty</u>. It shall be unlawful for any person to violate or fail to comply with any provision of the fire code as herein adopted by reference and modified. The violation of any section of this chapter shall be punishable by a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

FIRE DEPARTMENT¹

SECTION

- 7-201. Establishment, equipment, and membership.
- 7-202. Objectives.
- 7-203. Organization, rules, and regulations.
- 7-204. Records and reports.
- 7-205. Tenure and compensation of members.
- 7-206. Chief responsible for training and maintenance.
- 7-207. Chief to be assistant to state officer.
- **7-201.** Establishment, equipment, and membership. There is hereby established a fire department to be supported and equipped from appropriations by the governing body of the municipality. All apparatus, equipment, and supplies shall be purchased by or through the municipality and shall be and remain the property of the municipality. The fire department shall be composed of a chief appointed by the governing body and such number of physically-fit subordinate officers and firefighters as the chief shall appoint. (1997 Code, § 7-201)
 - **7-202. 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. (1997 Code, § 7-202)
- **7-203.** Organization, rules, and regulations. The chief of the fire department shall set up the organization of the department, make definite assignments to individuals, and shall formulate and enforce such rules and regulations as shall be necessary for the orderly and efficient operation of the fire department. (1997 Code, § 7-203)
- **7-204.** Records and reports. The chief of the fire department shall keep adequate records of all fires, inspections, apparatus, equipment, personnel, and work of the department. He shall submit a written report on such matters to the

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

¹Municipal code reference

mayor once each month, and at the end of the year a detailed annual report shall be made. (1997 Code, § 7-204)

7-205. <u>Tenure and compensation of members</u>. The chief shall hold office so long as his conduct and efficiency are satisfactory to the governing body. However, so that adequate discipline may be maintained, the chief shall have the authority to suspend or discharge any other member of the fire department when he deems such action to be necessary for the good of the department. The chief may be suspended up to thirty (30) days by the mayor but may be dismissed only by the governing body.

All personnel of the fire department shall receive such compensation for their services as the governing body may from time to time prescribe. (1997 Code, § 7-205)

- **7-206.** Chief responsible for training and maintenance. The chief of the fire department shall be fully responsible for the training of the firefighters and for maintenance of all property and equipment of the fire department. The minimum training shall consist of having the personnel take the fire apparatus out for practice operations not less than once a month. (1997 Code, § 7-206)
- **7-207.** Chief to be assistant to state officer. Pursuant to requirements of *Tennessee Code Annotated*, § 68-102-108, the chief of the fire department is designated as an assistant to the state commissioner of commerce and insurance and is subject to all the duties and obligations imposed by *Tennessee Code Annotated*, title 68, chapter 102, and shall be subject to the directions of the fire prevention commissioner in the execution of the provisions thereof. (1997 Code, § 7-207)

FIRE SERVICE OUTSIDE TOWN LIMITS

SECTION

7-301. Equipment to be used only within corporate limits generally.

7-301. Equipment to be used only within corporate limits generally. Equipment will be used in town limits as first priority. One (1) fire truck will remain in town limits at all times for handling of town fires. The remaining trucks can be used for rural fires or fulfilling mutual aid agreements. Rural fires can be answered within an approximate five (5) mile radius of the town. Half of the firefighters will remain in the town during a rural fire call. This will be conducted by senior firefighter answering call. (1997 Code, § 7-301)

FIREWORKS

SECTION

- 7-401. Seasonal sale permitted.
- 7-402. Rules and regulations.
- 7-403. Violations and penalty.

7-401. <u>Seasonal sale permitted</u>. It shall be lawful for fireworks as hereinafter defined to be sold within the corporate limits of the Town of Hornbeak from June 20 through July 5, and from December 10 through January 2 of each year. Fireworks permitted to be sold include those items classified as D.O.T. Class C consumer fireworks and those items that comply with the construction chemical composition and labeling regulations promulgated by the U.S. Consumer Product Safety Commission and permitted for use by the general public under their regulations, subject, however, to the provisions of *Tennessee Code Annotated*, § 68-104-101, and subject to such rules and regulations as the town may require and impose.

All persons engaged in the seasonal retailing of fireworks shall pay to the Town of Hornbeak a permit fee of twenty dollars (\$20.00) for each seasonal year defined as June 20 through July 5 or December 10 through January 2 of each year. (1997 Code, § 7-401, modified)

7-402. <u>Rules and regulations</u>. The Fire Chief of the Town of Hornbeak, Tennessee, and his or her representatives, shall have the power to adopt rules and regulations for the storage, location, display, and sale of fireworks in the interest of safety of the citizens of Hornbeak.

Such rules and regulations shall include all those specified at *Tennessee Code Annotated*, § 68-104-111, and the prohibitions included in *Tennessee Code Annotated*, § 68-104-112, as the statutes exist as of April 1991, regardless of whether such subsections are later revoked, rescinded, or amended.

In addition to the rules and regulations specified herein, the Fire Chief of the Town of Hornbeak shall require all seasonal retailers desiring to sell fireworks to maintain a permanent structure with such safety equipment as may be required to assure the safety and for the benefit of the citizens of Hornbeak. No tents, trailers, or temporary structures of any kind will be permitted.

All locations shall be approved by the fire chief, and the fire chief shall require that fireworks will only be sold from stationary, permanent structures, and shall not permit sales from tents, open buildings, trailer, mobile or motor homes, or any other transient structure. (1997 Code, § 7-402)

7-403. <u>Violations and penalty</u>. Any individual violating any provision of this chapter shall be guilty of a misdemeanor punishable pursuant to *Tennessee Code Annotated*, § 68-104-114.

The Fire Chief of the Town of Hornbeak is further authorized to seize any contraband and destroy fireworks which do not comply with the provisions defining allowable fireworks contained in this chapter, pursuant to the provisions of *Tennessee Code Annotated*, § 68-104-115. (1997 Code, § 7-403)

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

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

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws and/or ordinances, it shall be unlawful for any person to manufacture, receive, possess, store, transport, sell, furnish, or solicit orders for any intoxicating liquor within this town. "Intoxicating liquor" means and includes whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers. "Beer" shall be defined pursuant to *Tennessee Code Annotated*, § 57-5-101. (Ord. #18-01, May 2018)

¹State law reference *Tennessee Code Annotated*, title 57.

BEER

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Privilege tax.
- 8-209. Beer permits shall be restrictive.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. 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.
- 8-216. Violations and penalty.
- **8-201.** Beer board established. There is hereby established a beer board to be composed of all the members of the governing body, with the mayor as chairman. A chairman shall be elected annually by the board from among its members. All members of the beer board shall serve without compensation. (Ord. #18-01, May 2018, modified)
- 8-202. <u>Meetings of the beer board</u>. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the Hornbeak Town Hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman; provided, that he gives a adequate notice thereof to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #18-01, May 2018)
- **8-203.** Record of beer board proceedings to be kept. The recorder shall make a record of the proceedings of all meetings of the beer board. The record shall be a public record and shall contain at least the following: the date of each meeting; names of the board members present and absent; names of the 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. (Ord. #18-01, May 2018)

- **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. (Ord. #18-01, May 2018)
- **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. (Ord. #18-01, May 2018)
- **8-206.** "Beer" defined. The term "beer" as used in this chapter shall have the same definition appearing in *Tennessee Code Annotated*, § 57-5-101. (Ord. #18-01, May 2018)
- 8-207. Permit required for engaging in beer business.² It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish and, pursuant to *Tennessee Code Annotated*, § 57-5-104(a), shall be accompanied by a non-refundable application fee of two hundred fifty dollars (\$250.00). Said fee shall be in the form of a cashier's check payable to the Town of Hornbeak. 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. (Ord. #18-01, May 2018)
- **8-208.** Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer a privilege tax of one hundred dollars (\$100.00). Any person, firm, corporation, joint stock company, syndicate or association engaged in the sale, distribution, storage or manufacture of beer shall remit the tax each successive January 1 to the Town

Tennessee Code Annotated, § 57-5-106.

Tennessee Code Annotated, § 57-5-103.

Tennessee Code Annotated, § 57-5-104(b).

¹State law reference:

²State law reference:

³State law reference

of Hornbeak, Tennessee. At the time a new permit is issued to any business subject to this tax, the permit holder shall be required to pay the privilege tax on a prorated basis for each month or portion thereof remaining until the next tax payment date. (Ord. #18-01, May 2018)

- 8-209. Beer permits shall be restrictive. All beer permits shall be restrictive as to the type of beer business authorized under them. Separate permits shall be required for selling at retail, storing, distributing, and manufacturing. Beer permits for retail sale of beer may be further restricted so as to authorize sales only for off-premises consumption. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by his permit. It shall likewise be unlawful for him not to comply with any and all express restrictions or conditions in his permit.
- (1) <u>On-premises permits</u>. An on-premises consumption permit shall be issued for the consumption of beer only on the premises. To qualify for an on-premises permit, the establishment must, in addition to meeting the other regulations and restrictions of this chapter:
 - (a) Be primarily a restaurant or eating place;
 - (b) Have operable and cleanly maintained commercial cooking equipment on the premises;
 - (c) Able to seat a minimum of seventy (70) people, including children, in booths and at tables, in addition to any other seating it may have:
 - (d) Have all seating in the interior of the building under a permanent roof;
 - (e) Have been in continual operation for a period of at least six (6) months; and
 - (f) Be kept and maintained in a safe, clean and sanitary condition as required for a rating of Class "B" or better as established by

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

¹State law reference

the Tennessee Department of Conservation, Division of Hotels and Restaurant Inspections.

In addition, the monthly beer sales of any establishment which holds an on-premises consumption license shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment, which for two (2) consecutive months, or any three (3) months in any calendar year, has sales exceeding fifty percent (50%) shall have its beer permit revoked.

- (2) <u>Off-premises permits</u>. An off-premises permit shall be issued for the consumption of beer only off the premises of the permit holder. To qualify for an off-premises permit, an establishment must, in addition to meeting the other regulations and restrictions of this chapter:
 - (a) Be a grocery of convenience type market; and
 - (b) Be primarily engaged in the sale of grocery, personal and home care, cleaning articles, and tobacco products sales, but may also sell gasoline.

In addition, the monthly beer sales of any establishment which holds an off-premises permit shall not exceed twenty-five percent (25%) of gross sales of the establishment. Any such establishment which, for two (2) consecutive months, or any three (3) months in any calendar year, has sales exceeding fifty percent (50%) shall have its beer permit revoked. (Ord. #18-01, May 2018)

- **8-210.** <u>Limitation on number of permits</u>. The number of licenses for the sale of beer shall be limited to:
 - (1) On-premises permits: not to exceed one (1) permits;
 - (2) Off-premises permits: not to exceed three (3) permits; and
- (3) There shall be no limit on the number of permits issued for the storage, distribution, or manufacture of beer.

Provided that all requirements of this chapter are complied with, all existing permits for the sale of beer within the corporate limits of the town at the date of the passage of this chapter shall continue to be renewed. A new permit may be issued to a qualified purchaser of an existing establishment in which a permit is now held for the sale of beer, and the permit used only within the establishment or building purchased. (Ord. #18-01, May 2018)

8-211. <u>Interference with public health, safety, and morals prohibited</u>. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with schools, residences, churches, or other places of public gathering, or would otherwise interfere with the public health, safety, and morals. No permit shall be issued to any person who has been convicted for the illegal possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the ten (10) year period preceding the date of application for a beer permit. (Ord. #18-01, May 2018)

- 8-212. Prohibited conduct or activities by beer permit holders, employees and persons engaged in the sale of beer. It shall be unlawful for any beer permit holder, employee or person engaged in the sale of beer to:
- (1) Employ any minor under eighteen (18) years of age in the sale, storage, distribution or manufacture of beer.¹
- (2) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (3) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
 - (4) Allow drunk persons to loiter about his premises.
- (5) Serve, sell, or allow the consumption on his premises of any alcoholic beverage with an alcoholic content higher than beer.
- (6) Employ any person convicted for the illegal possession, sale, manufacture, or transportation of intoxicating liquor, or a crime involving moral turpitude within ten (10) years of such employment with the permit holder.
- (7) Fail to provide and maintain separate sanitary toilet facilities for men and women. (Ord. #18-01, May 2018)
- 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 vender. "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

¹State law reference

second time in a consecutive twelve (12) month period. The revocation shall be for three (3) years. (Ord. #18-01, May 2018)

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

- (1) <u>Definition</u>. "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) <u>Penalty, revocation or suspension</u>. 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 town may impose. (Ord. #18-01, May 2018)

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. (Ord. #18-01, May 2018)

¹State law reference

Tennessee Code Annotated, § 57-5-108(2).

²State law reference

Tennessee Code Annotated, § 57-5-607.

8-216. <u>Violations and penalty</u>. Except as provided in § 8-215, 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 a violation shall be allowed to continue shall constitute a separate offense. (Ord. #18-01, May 2018)

WINE IN RETAIL FOOD STORES

SECTION

- 8-301. Inspection fee on retail food store wine licensees.
- 8-302. Application for certificate.
- **8-301.** <u>Inspection fee on retail food store wine licensees</u>. Pursuant to the authority contained in *Tennessee Code Annotated*, §§ 57-3-501, *et seq.*, there is hereby imposed an inspection fee on retail food store wine licensees. The inspection fee shall be five percent (5%) of the wholesale price or alcoholic beverages as defined in *Tennessee Code Annotated*, § 57-3-101(a)(1)(A), supplied by a wholesaler to a retail food store wine licensee. (Ord. #18-01, May 2018)
- **8-302. Application for certificate**. Before any certificate, as required by *Tennessee Code Annotated*, § 57-3-806, shall be signed by the mayor, or by any alderman, a request in writing shall be filed with the recorder giving the following information:
 - (1) Name, age and address of the applicant.
 - (2) Number of years residence at the applicant's address.
- (3) Whether or not the applicant has been convicted of a felony in the past ten (10) years.
- (4) The location of the proposed store for the sale of alcoholic beverages.
 - (5) The name and address of the owner of the store.
- (6) If the applicant is a partnership, the name, age and address of each partner. If the applicant is a corporation, the name, age and address of the executive officers, or those who will be in control of the package store.

The information in the application shall be verified by the oath of the applicant. If the applicant is a partnership or a corporation, the application shall be verified by the oath of each partner, or by the president of the corporation. (Ord. #18-01, May 2018)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

- 1. PEDDLERS, SOLICITORS, ETC.
- 2. YARD SALES.
- 3. POOL ROOMS.
- 4. CABLE TELEVISION.
- 5. TELECOMMUNICATIONS RIGHTS-OF-WAY RENTAL.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.2

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers and solicitors.
- 9-106. Restrictions on transient vendors.
- 9-107. Display of permit.
- 9-108. Suspension or revocation of permit.
- 9-109. Expiration and renewal of permit.
- 9-110. Violations and penalty.
- **9-101. Definitions**. Unless otherwise expressly stated, whenever used in this chapter, the following words shall have the meaning given to them in this section:
- (1) "Peddler" means any person, firm or corporation, either a resident or a nonresident of the town, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or

¹Municipal code references

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

²Municipal code references

Privilege taxes: title 5.

from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

- (2) "Solicitor" means any person, firm or corporation who goes from dwelling to dwelling, business to business, place to place, or from street to street, taking or attempting to take orders for any goods, wares or merchandise, or personal property of any nature whatever for future delivery, except that the term shall not include solicitors for charitable and religious purposes and solicitors for subscriptions as those terms are defined below.
- (3) "Solicitor for charitable or religious purposes" means any person, firm, corporation or organization who or which solicits contributions from the public, either on the streets of the town or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization. No organization shall qualify as a "charitable" or "religious" organization unless the organization meets one of the following conditions:
 - (a) Has a current exemption certificate from the Internal Revenue Service issued under section 501(c)(3) of the Internal Revenue Service Code of 1954, as amended.
 - (b) Is a member of United Way, Community Chest or similar "umbrella" organizations for charitable or religious organizations.
 - (c) Has been in continued existence as a charitable or religious organization in Obion County for a period of two (2) years prior to the date of its application for registration under this chapter.
- (4) "Solicitor for subscriptions" means any person who solicits subscriptions from the public, either on the streets of the town, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.
- (5) "Transient vendor¹" means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the

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

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

¹State law references

owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-public place including a hotel, rooming house, storeroom, building or part of a building, tent, vacant lot, railroad car, or motor vehicle which is temporarily occupied for the purpose of exhibiting stocks of merchandise to the public. Premises are not temporary if the same person has conducted business at those premises for more than six (6) consecutive months or has occupied the premises as his or her permanent residence for more than six (6) consecutive months.

- **9-102.** Exemptions. The terms of this chapter shall neither apply to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business.
- **9-103.** Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor or solicitor, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the town unless the same has obtained a permit from the town in accordance with the provisions of this chapter.
- **9-104.** Permit procedure. (1) Application form. A sworn application containing the following information shall be completed and filed with the recorder by each applicant for a permit as a peddler, transient vendor or solicitor, and by each applicant for a permit as a solicitor for charitable or religious purposes or as a solicitor for subscriptions:
 - (a) The complete name and permanent address of the business or organization the applicant represents.
 - (b) A brief description of the type of business and the goods to be sold.
 - (c) The dates for which the applicant intends to do business or make solicitations.
 - (d) The names and permanent addresses of each person who will make sales or solicitations within the town.
 - (e) The make, model, complete description, and license tag number and state of issue, of each vehicle to be used to make sales or solicitations, whether or not such vehicle is owned individually by the person making sales or solicitations, by the business or organization itself, or rented or borrowed from another business or person.
 - (f) Tennessee state sales tax number, if applicable.
- (2) <u>Permit fee</u>. Each applicant for a permit as a peddler, transient vendor or solicitor shall submit with his application a nonrefundable fee of twenty dollars (\$20.00). There shall be no fee for an application for a permit as a solicitor for charitable purposes or as a solicitor for subscriptions.

- (3) <u>Permit issued</u>. Upon the completion of the application form and the payment of the permit fee, where required, the recorder shall issue a permit and provide a copy of the same to the applicant.
- (4) <u>Submission of application form to chief of police</u>. Immediately after the applicant obtains a permit from the recorder, the recorder shall submit to the chief of police a copy of the application form and the permit.
- **9-105.** <u>Restrictions on peddlers and solicitors</u>. No peddler, solicitor, solicitor for charitable purposes, or solicitor for subscriptions shall:
- (1) Be permitted to set up and operate a booth or stand on any street or sidewalk, or in any other public area within the town.
- (2) Stand or sit in or near the entrance to any dwelling or place of business, or in any other place which may disrupt or impede pedestrian or vehicular traffic.
- (3) Offer to sell goods or services or solicit in vehicular traffic lanes, or operate a "road block" of any kind.
- (4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise.
- (5) Enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice "Peddlers or Solicitors Prohibited," or similar language carrying the same meaning, is located.
- **9-106.** Restrictions on transient vendors. A transient vendor shall not advertise, represent, or hold forth a sale of goods, wares or merchandise as an insurance, bankrupt, insolvent, assignee, trustee, estate, executor, administrator, receiver's manufacturer's wholesale, cancelled order, or misfit sale, or closing-out sale, or a sale of any goods damaged by smoke, fire, water or otherwise, unless such advertisement, representation or holding forth is actually of the character it is advertised, represented or held forth.
- **9-107. Display of permit**. Each peddler, solicitor, solicitor for charitable purposes or solicitor for subscriptions is required to have in his possession a valid permit while making sales or solicitations, and shall be required to display the same to any police officer upon demand.
- **9-108.** Suspension or revocation of permit. (1) Suspension by the recorder. The permit issued to any person or organization under this chapter may be suspended by the recorder for any of the following causes:
 - (a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or
 - (b) Any violation of this chapter.

- (2) <u>Suspension or revocation by the board of mayor and aldermen</u>. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of mayor and aldermen, after notice and hearing, for the same causes set out in paragraph (1) above. Notice of the hearing for suspension or revocation of a permit shall be given by the recorder in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed to the permit holder at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing.
- **9-109.** Expiration and renewal of permit. The permit of peddlers, solicitors and transient vendors shall expire on the same date that the permit holder's privilege license expires. The registration of any peddler, solicitor, or transient vendor who for any reason is not subject to the privilege tax shall be issued for six (6) months. The permit of solicitors for religious or charitable purposes and solicitors for subscriptions shall expire on the date provided in the permit, not to exceed thirty (30) days.
- **9-110.** <u>Violations and penalty</u>. In addition to any other action the town may take against a permit holder in violation of this chapter, such violation shall be punishable under the general penalty provision of this code. Each day a violation occurs shall constitute a separate offense.

YARD SALES

SECTION

- 9-201. Definitions.
- 9-202. Property permitted to be sold.
- 9-203. Display of sale property.
- 9-204. Persons exempted from chapter.
- 9-205. Violations and penalty.
- **9-201. Definitions**. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein.
- (1) "Personal property" shall mean property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.
- (2) "Yard sales" shall mean and include all general sales, open to the public, conducted from or on any premises in any residential or nonresidential zone, as defined by the zoning ordinance¹, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," "flea market," or "rummage" sale. This definition does not include the operation of such businesses carried on in a nonresidential zone where the person conducting the sale does so on a regular day-to-day basis. This definition shall not include a situation where no more than five (5) specific items or articles are held out for sale and all advertisements of such sale specifically names those items to be sold.
- **9-202.** Property permitted to be sold. It shall be unlawful for any person to sell or offer for sale, under authority granted by this chapter, property other than personal property.
- **9-203.** <u>Display of sale property</u>. Personal property offered for sale may be displayed within the residence, in a garage, carport, and/or in a front, side or rear yard, but only in such areas. No personal property offered for sale at a yard sale shall be displayed in any public right-of-way. A vehicle offered for sale may be displayed on a permanently constructed driveway within such front or side yard.

Zoning ordinance: title 14, chapter 2.

¹Municipal code reference

- **9-204.** Persons exempted from chapter. The provisions of this chapter shall not apply to or affect the following:
- (1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officials.
- (3) Any sale conducted by any merchant or mercantile or other business establishment on a regular, day-to-day basis from or at the place of business wherein such sale would be permitted by zoning regulations of the Town of Hornbeak, or under the protection of the nonconforming use section thereof, or any other sale conducted by a manufacturer, dealer or vendor in which sale would be conducted from properly zoned premises, and not otherwise prohibited by other ordinances.
- **9-205.** <u>Violations and penalty</u>. Any person found guilty of violating the terms of this chapter shall be subject to a penalty under the general penalty provision of this code.

POOL ROOMS¹

SECTION

- 9-301. Prohibited in residential areas.
- 9-302. Hours of operation regulated.
- 9-303. Minors to be kept out; exception.
- **9-301.** Prohibited in residential areas. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire on any premises located in any block where fifty percent (50%) or more of the land is used or zoned for residential purposes. (1997 Code, § 9-301)
- **9-302.** Hours of operation regulated. It shall be unlawful for any person to open, maintain, conduct, or operate any place where pool tables or billiard tables are kept for public use or hire at any time on Sunday or between the hours of 11:00 P.M. and 6:00 A.M. on other days. (1997 Code, § 9-302)
- 9-303. Minors to be kept out; exception. It shall be unlawful for any person engaged regularly, or otherwise, in keeping billiard, bagatelle, or pool rooms or tables, their employees, agents, servants, or other persons for them, knowingly to permit any person under the age of eighteen (18) years to play on said tables at any game of billiards, bagatelle, pool, or other games requiring the use of cue and balls, without first having obtained the written consent of the father and mother of such minor, if living; if the father is dead, then the mother, guardian, or other person having legal control of such minor; or if the minor be in attendance as a student at some literary institution, then the written consent of the principal or person in charge of such school; provided, that this section shall not apply to the use of billiards, bagatelle, and pool tables in private residences. (1997 Code, § 9-303)

¹Municipal code reference Privilege taxes: title 5.

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 Town of Hornbeak and its inhabitants under franchise as the board of mayor and aldermen shall grant. The rights, powers, duties and obligations of the Town of Hornbeak 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. (1997 Code, § 9-401)

¹For complete details relating to the cable television franchise agreement see Ords. #9-21, Sept. 1981, and 2001-04, Sept. 2001 in the office of the recorder.

TELECOMMUNICATIONS RIGHTS-OF-WAY RENTAL

SECTION

- 9-501. Purpose.
- 9-502. Applicable scope.
- 9-503. Definitions.
- 9-504. Municipal right-of-way use permit required.
- 9-505. Application to provide telecommunications service using the public rights-of-way.
- 9-506. Municipal right-of-way use permit issuance.
- 9-507. Petition for reconsideration.
- 9-508. Administration and enforcement.
- 9-509. Applicability.
- 9-510. Compensation to town.
- 9-511. Remitting rental fees to the town.
- 9-512. Audits.
- 9-513. Transfers.
- 9-514. Notices to the town.
- 9-515. Construction obligations.
- 9-516. Conditions of rights-of-way occupancy.
- 9-517. Insurance requirements.
- 9-518. Indemnity.
- 9-519. Privacy of customer information.
- 9-520. Annexation; deannexation.
- 9-521. Unauthorized use of public rights-of-way.
- **9-501.** Purpose. The purpose of this chapter is to establish a competitively neutral policy for usage of public rights-of-way for the provision of telecommunications services and enable the town to:
- (1) Permit non-discriminatory access to the public rights-of-way for providers of telecommunications services;
- (2) Manage the public rights-of-way in order to minimize the impact and cost to the citizens of the placement of telecommunications facilities within the rights-of-way;
- (3) Obtain fair and reasonable compensation for the commercial use of public rights-of-way through collection of rents;
- (4) Promote competition among telecommunications service providers and encourage the universal availability of advanced telecommunications services to all residents and businesses of the town; and
- (5) Minimize the congestion, inconvenience, visual impact, and other adverse effects on the town's public rights-of-way. (1997 Code, § 9-501)

- **9-502.** Applicable scope. This chapter applies to all telecommunications service providers under Titles II ("Title II") and VI ("Title VI") of the Communications Act of 1934, as amended, (47 U.S.C. §§ 201 *et seq.*) excluding services provided solely by means of wireless transmission. This chapter does not exempt providers of cable service or open video systems service from the requirements of Title VI and applicable FCC rules and regulations. Any requirements and obligations imposed by this chapter are in addition to any requirements imposed by Title VI or state law and regulation on such providers. (1997 Code, § 9-502)
- **9-503.** <u>Definitions</u>. (1) "Applicant." Any person who files an application with the town, under § 9-505 (Application to provide telecommunications services) of this chapter, in order to obtain the necessary permission to use the public rights-of-way to provide telecommunications services within the town, whether by means of the person's own facilities or by means of capacity obtained from another provider of telecommunications services.
- (2) "Chief administrative officer." The Chief Administrative Officer of the Town of Hornbeak, or the person designated by the governing body to carry out the duties and responsibilities of the chief administrative officer. "Chief administrative officer" shall also mean the person under the chief administrative officer's management and control designated by the chief administrative officer to administer the provisions of this chapter.
- (3) "Gross revenue." All revenues received by a provider for telecommunications services furnished within the town. However, revenues received for use of network capacity, switched or unswitched access, and sale of unbundled elements under 47 U.S.C. § 251(b) and (c) from resellers of telecommunications services who are in compliance with this chapter are not included. "Gross revenue" does not include revenue uncollectible from customers ("bad debt") and any end user taxes collected from customers.
- (4) "Municipal right-of-way use permit or municipal permit." The right granted by the town to use public rights-of-way to provide telecommunications services within the town to the public or to other providers, as specified by the terms of this chapter.
- (5) "Person." Any person, firm, partnership, association, corporation, company or organization of any kind.
- (6) "Provider." A person who has been granted a certificate of need by the Tennessee Regulatory Authority and/or who operates or uses a telecommunications network within the town to provide telecommunications services, and who falls under the definition of § 9-502 (Applicable scope) of this chapter.
- (7) "Public rights-of-way." The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, easement or similar property in which the town holds any property interest or exercises any rights of

management or control over and which, consistent with the purposes for which it was acquired or dedicated, may be used for the installation and maintenance of a telecommunications network.

- (8) "Telecommunications network or network." All facilities placed in the public rights-of-way and used to provide telecommunications services.
- "Telecommunications services." All transmissions between or among points specified by the user, of information of the user's choosing (whether voice, video or data), without change in content of the information as sent and received, where such transmissions are accomplished through a telecommunications network. "Telecommunications services" include all ancillary or adjunct switching services and signal conversions rendered as a function of underlying transmission services, but excludes long distance transmissions (inter-LATA and intra-LATA toll transmissions). "Telecommunications services" includes all services provided. "Telecommunications services" also includes all content or value-added services rendered in conjunction with transmission services.
- (10) "Town." The Town of Hornbeak, the present municipal corporation of Hornbeak, together with any future annexation made pursuant to law.
- (11) "Town requirements." All laws, rules, regulations, policies and directives of general application of the Town of Hornbeak, in effect at present or to be adopted in the future by the town. (1997 Code, § 9-503)
- **9-504.** <u>Municipal right-of-way use permit required</u>. (1) A person may not deliver telecommunications services in the town by means of a network unless the person obtains a municipal right-of-way use permit.
- (2) The use of public rights-of-way for the delivery of any service not covered by this chapter is subject to all other applicable town requirements. (1997 Code, § 9-504)
- 9-505. Application to provide telecommunications services using the public rights-of-way. (1) Any person proposing to provide telecommunications services by means of a telecommunications network located within the public rights-of-way ("applicant") shall submit an application to the chief administrative officer. The application, in a form to be prescribed by the chief administrative officer, shall describe all services the applicant wishes to provide, outline applicant's proposed network, and identify the uses of and potential impact on the public rights-of-way.
- (2) The chief administrative officer shall have the duty to review applications submitted under this chapter and administer the provisions of this chapter regarding the granting or denial of a municipal right-of-way use permit to applicants. The chief administrative officer shall issue municipal right-of-way use permits, and shall administer and enforce compliance with respect to all municipal right-of-way use permits granted under this chapter. The chief administrative officer shall submit a report annually to the governing body

analyzing whether any requirements imposed by each section of this chapter result in:

- (a) Anticompetitive effects in the market for telecommunications services in the town, as defined by federal law; and/or
- (b) Discrimination in favor of or against a holder of a certificate of need under state law. (1997 Code, § 9-505)
- **9-506.** <u>Municipal right-of-way use permit issuance</u>. (1) If the chief administrative officer finds that the application meets the requirements of this chapter, the chief administrative officer shall cause to be prepared a municipal right-of-way use permit for issuance to the applicant.
- (2) The chief administrative officer shall complete all deliberations towards issuing a municipal right-of-way use permit, and shall issue the permit or a written denial within sixty (60) days of the receipt of an application. The applicant shall respond to all reasonable information requests of the chief administrative officer during this consideration period. Any delays in providing such information shall be documented in writing by the chief administrative officer, who may cite any delays or refusals in obtaining information from an applicant as grounds for denial of a permit. (1997 Code, § 9-506)
- 9-507. Petition for reconsideration. The act of granting, denying or terminating a municipal right-of-way use permit is an exercise of the police power of the town. A person whose application for a municipal right-of-way use permit is denied must petition the governing body for reconsideration before seeking judicial remedies, and must file such a petition within forty-five (45) days of the written denial of such application by the chief administrative officer. A petition is considered denied if the governing body does not act within forty-five (45) days after the petition is filed with the town clerk. (1997 Code, § 9-507)

9-508. Administration and enforcement.

- (1) The chief administrative officer shall administer this chapter and enforce compliance with a municipal right-of-way use permit granted under this chapter.
- (2) A provider shall report information that the chief administrative officer requires in the form and manner prescribed by the chief administrative officer relating to the use of public rights-of-way for the right-of-way occupancy authorized by a municipal right-of-way use permit granted under this chapter.
- (3) The chief administrative officer shall report to the governing body the chief administrative officer's determination that a provider has failed to comply with this chapter. (1997 Code, § 9-508)

- **9-509.** <u>Applicability</u>. (1) Sections 9-515 (construction), 9-516 (ROW occupancy), and 9-517 (insurance) of this chapter apply only to a provider that owns or controls physical facilities in the rights-of-way.
- (2) Section 9-518 (indemnity) of this chapter applies to a provider that has a property interest in a network. (1997 Code, § 9-509)
- **9-510.** Compensation to town. (1) To compensate the town for the use and occupancy of the public rights-of-way, a provider shall pay a municipal right-of-way rental fee calculated as follows:
 - (a) Rights-of-way rental fee. Each provider shall be subject to a five percent (5%) annual fee based on gross revenue obtained from the provision of telecommunications services within the town.
 - (b) Non-monetary consideration. To the extent allowed by state and federal law, the town may include non-monetary consideration from each provider. To the extent not expressly prohibited by applicable law, a provider may agree to furnish the town non-monetary consideration in the form of telecommunications services, network capacity, conduit, or other infrastructure, valued at the provider's direct cost. The chief administrative officer shall apply a credit or an offset for any non-monetary consideration received to the annual right-of-way rental fee. The chief administrative officer shall publicly disclose the form of non-monetary consideration and the credit amount.
 - (c) Credit for cable television franchise fees and other contributions. Any telecommunications provider who is currently franchised by the town under state and federal law and regulations to provide cable television service shall receive a credit against the annual rights-of-way rental fee for any cable television franchise fees paid to the town, and any other monetary or non-monetary contributions to the town under a cable franchise agreement.
- (2) A provider may pass through to customers the municipal right-of-way rental fee on a pro rata basis, at its discretion, as permitted by state and federal law. The town does not require or recommend a pass-through charge of the fee on a per line or per customer basis. (1997 Code, § 9-510)
- **9-511.** Remitting rental fees to the town. A provider shall remit the municipal right-of-way rental fee on a quarterly basis. Payment shall be made on or before the forty-fifth (45th) day following the close of each calendar quarter for which the payment is calculated. (1997 Code, § 9-511, modified)
- **9-512.** Audits. (1) On thirty (30) days notice to a provider, the town may audit a provider at any time. The provider shall furnish information to demonstrate its compliance with the municipal right-of-way use permit.
- (2) A provider shall keep complete and accurate books of accounts and records of business and operations in accordance with generally accepted

- accounting principles for a period of five (5) years. If the Federal Communications Commission requires, a provider shall use the system of accounts and the forms of books, accounts, records, and memoranda prescribed in 47 CFR part 32 or its successor. The town may examine the provider's books and records.
- (3) A provider shall make available to the town, for the town to examine, audit, review and copy, in the town's offices, upon the chief administrative officer's reasonable written request, its books and records including papers, books, accounts, documents, maps, plans and other provider records pertaining to a municipal right-of-way use permit granted under this chapter. A provider shall fully cooperate in making records available and otherwise assist the town examiner. The town examiner shall not make copies of customer specific information. (1997 Code, § 9-512)
- **9-513.** Transfers. (1) A provider may not transfer a municipal right-of-way use permit unless the chief administrative officer approves the transfer in writing.
- (2) A change in control of a provider is a transfer requiring chief administrative officer approval. A change of twenty-five percent (25%) or greater in the ownership of the provider establishes a rebuttable presumption of a change in control.
- (3) If a provider attempts to transfer or transfers the provider's municipal right-of-way use permit without approval of the chief administrative officer, the chief administrative officer may revoke the municipal right-of-way use permit. If a municipal right-of-way use permit is revoked, all rights of the provider under the municipal right-of-way use permit end.
- (4) A provider may transfer, without the chief administrative officer's approval, the facilities in the rights-of-way under a municipal right-of-way use permit to the provider's affiliate or to another provider who has a municipal right-of-way use permit under this chapter. The provider transferring the facilities remains subject to all applicable obligations and provisions of the municipal right-of-way use permit unless the provider to which the facilities are transferred is also subject to these applicable obligations and provisions.
- (5) The chief administrative officer must act on a request for transfer of a municipal permit within ninety (90) days of receipt of the request from the provider. Any request for a transfer of a municipal permit not acted upon within ninety (90) days shall be deemed to have been approved. (1997 Code, § 9-513)
- **9-514.** Notices to the town. (1) A provider shall notify the chief administrative officer in writing contemporaneously with the transmittal of all petitions, applications, written communications and reports submitted by the provider, to the Federal Communications Commission and the Tennessee Regulatory Authority, or their successor agencies relating to matters affecting both the use of public rights-of-way and the telecommunications services

authorized by a municipal permit granted under this chapter. A provider shall furnish the chief administrative officer copies of the documents upon request.

- (2) If a provider notifies the town of the confidential nature of information, the chief administrative officer shall maintain the confidentiality of the information to the extent permitted by law. Upon receipt in the chief administrative officer's office of requests for confidential information the town shall notify the affected providers of the request by facsimile transmission. (1997 Code, § 9-514)
- **9-515.** Construction obligations. (1) A provider is subject to the police powers of the town, other governmental powers, and the town's rights as a property owner under state and federal laws. A provider is subject to town requirements and federal and state rules in connection with the construction, expansion, reconstruction, maintenance or repair of facilities in the public rights-of-way.
- (2) A provider shall place certain facilities underground according to applicable town requirements.
- (3) At the town's request, a provider shall furnish the town accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation and repair of facilities performed by the provider in the public rights-of-way. If any information furnished is erroneous as to the location of facilities, and reliance on this information results in construction delays or additional expenses, the provider who furnished the erroneous information shall be liable for the cost of delays and the additional expenses.
- (4) The construction, expansion, reconstruction, excavation, use, maintenance and operation of a provider's facilities and property are subject to applicable town requirements.
 - (a) A provider shall perform excavations and other construction in the public rights-of-way in accordance with all applicable town requirements, including the obligation to use trenchless technology whenever possible. The director of public works shall waive the requirement of trenchless technology if he determines that field conditions warrant the waiver. A provider shall minimize interference with the use of public and private property and shall follow the construction directions given by the town.
 - (b) When a provider completes construction work, a provider shall promptly restore the public rights-of-way in accordance with applicable town requirements. A provider may excavate only for the construction, installation, expansion, repair, removal, and maintenance of the provider's facilities.
 - (c) The town may require a provider to allow attachment of another provider's facilities to its poles and conduits, in accordance with the town charter, state and federal law.

- (d) A provider shall furnish the director of public works and the chief administrative officer with construction plans and maps showing the routing of new construction at least forty-five (45) days before beginning construction that involves an alteration to the surface or subsurface of the public right-of-way. A provider may not begin construction until the plans and drawings have been approved in writing by the director of public works.
- (e) If the chief administrative officer declares an emergency and requests the removal or abatement of facilities, by written notice, a provider shall remove or abate the provider's facilities by the deadline provided in the chief administrative officer's request. A provider and the town shall cooperate to the extent possible to assure continuity of service. If a provider, after notice, fails or refuses to act, the town may remove or abate the facility, at the sole cost and expense of the provider, without paying compensation to the provider and without the town incurring liability for damages.
- (f) Except in an emergency, a provider may not excavate the pavement of a street or public right-of-way without first complying with town requirements.
- (g) Within one hundred twenty (120) days of completion of each new segment of a provider's facilities, a provider shall supply the town with a complete set of "as built" drawings for the segment in a format prescribed by the director of public works. A provider must obtain the town's approval before relocating the provider's facilities in the public rights-of-way. The town may not unreasonably withhold approval. A provider shall furnish a revised map including additional facilities on June 30 of each year to the director of public works showing how these facilities connect to existing facilities. (1997 Code, § 9-515)
- 9-516. <u>Conditions of rights-of-way occupancy</u>. (1) In the exercise of governmental functions, the town has first priority over all other uses of the public rights-of-way. The town reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachment, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley or right-of-way occupied by a provider, and to change the curb, sidewalks or the grade of streets.
- (2) In case of conflict or interference between the facilities of different providers, the provider whose facilities were first permitted shall have priority over a competing provider's use of the public rights-of-way.
- (3) If, during the term of a municipal permit, the town authorizes abutting landowners to occupy space under the surface of any public street, alley, or rights-of-way, the grant to an abutting landowner shall be subject to the rights of the provider. If the town closes or abandons a public right-of-way that contains a portion of a provider's facilities, the town shall convey the land in the

closed or abandoned public rights-of-way subject to the rights granted in the municipal permit.

- (4) If the town gives written notice, a provider shall, at the provider's expense, temporarily or permanently, remove, relocate, change or alter the position of provider's facilities that are in the public rights-of-way within one hundred twenty (120) days. The town shall give notice whenever the town has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a town or other governmental entity's public improvement in the public rights-of-way. This section shall not be construed to prevent a provider's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or renewal.
- (5) A provider who holds a municipal permit may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its network. All tree trimming shall be performed in accordance with standards promulgated by the town. When ordered by the director of public works, tree trimming shall be done under the supervision of the town.
- (6) Providers shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures if the town gives written notice of no less than forty-eight (48) hours. The expense of this temporary rearrangement shall be paid by the party or parties requesting and benefitting from the temporary rearrangement. Provider may require prepayment or prior posting of a bond from the party requesting the temporary move. (1997 Code, § 9-516)
- 9-517. <u>Insurance requirements</u>. (1) A provider shall obtain and maintain insurance in the amounts prescribed by the chief administrative officer with an insurance company licensed to do business in the State of Tennessee acceptable to the chief administrative officer throughout the term of a municipal permit granted under this chapter. A provider shall furnish the town with proof of insurance at the time of issuance of a municipal permit. The town reserves the right to review the insurance requirements while a municipal permit is in effect, and to reasonably adjust insurance coverage and limits when the chief administrative officer determines that changes in statutory law, court decisions, or the claims history of the industry or the provider require adjustment of the coverage. For purposes of this section, the town will accept certificates of self-insurance issued by the State of Tennessee providing the same coverage.
- (2) The chief administrative officer may, on request and at no cost to the town, receive copies of certificates of insurance evidencing the coverage required by this section. The chief administrative officer may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the town, the provider, or the underwriter. If the chief

administrative officer requests a deletion, revision or modification, a provider shall exercise reasonable efforts to pay for and to accomplish the change.

An insurance certificate shall contain the following required provisions:

- (a) Name the town and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;
- (b) Provide for thirty (30) days notice to the town for cancellation, non-renewal, or material change;
- (c) Provide that notice of claims shall be provided to the chief administrative officer by certified mail; and
- (d) Provide that the terms of the municipal permit which impose obligations on the provider concerning liability, duty, and standard of care, including the indemnity section, are included in the policy and that the risks are insured within the policy terms and conditions.
- (3) A provider shall file and maintain proof of insurance with the chief administrative officer during the term of a municipal permit. An insurance certificate obtained in compliance with this section is subject to town approval. The town may require the certificate to be changed to reflect changing liability limits. A provider shall immediately advise the town of actual or potential litigation that may develop that would affect insurance coverage related to a municipal permit.
- (4) An insurer has no right of recovery against the town. That required insurance policies shall protect the provider and the town. The insurance shall be primary coverage for losses covered by the policies.
- (5) The policy clause "other insurance" shall not apply to the town where the town is an insured under the policy.
- (6) The provider shall pay premiums and assessments. A company which issues an insurance policy has no recourse against the town for payment of a premium or assessment. Insurance polices obtained by a provider must provide that the issuing company waives all right of recovery by way of subrogation against the town in connection with damage covered by the policy. (1997 Code, § 9-517)
- **9-518.** <u>Indemnity</u>. (1) During the term of a municipal permit, a provider is liable for the acts or omissions of an entity used by the provider, including an affiliate, when the entity is involved directly or indirectly in the construction and installation of the provider's facilities. The acts or omissions of the entity shall be considered the acts or omissions of the provider.
- (2) Each provider granted a municipal permit under this chapter shall provide to the chief administrative officer, in writing, a statement that the provider agrees to defend, indemnify and hold the town harmless against all damages, cost, loss, or expense arising out of, incident to, concerning or resulting from the negligence or willful misconduct of the provider, its agents, employees, or subcontractors, in the performance of activities under the municipal permit:

- (a) For the repair, replacement, or restoration of town property, equipment materials, structures and facilities which are damaged, destroyed or found to be defective; and
- (b) Against any and all claims, demands, suits, causes of action, and judgments for:
 - (i) Damage to or loss of the property of any person including, but not limited to, the provider, its agents, officers, employees and subcontractors, the town's agents, officers and employees, and third parties; and
 - (ii) Death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person including, but not limited to, the agents, officers and employees of the provider, the provider's subcontractors, the town, and third parties, no matter how, or to whom, the loss may occur.
- (3) The chief administrative officer shall give prompt written notice to a provider of any claim for which the town seeks indemnification. The provider shall have the right to investigate, defend and compromise these claims subject to the town's prior approval. (1997 Code, § 9-518)
- **9-519.** Privacy of customer information. A provider shall comply with state and federal law regarding privacy of customer information. (1997 Code, § 9-519)
- **9-520.** Annexation; deannexation. Within thirty (30) days following the date of passage of any action affecting any deannexation or annexation, the chief administrative officer shall notify providers of this action by furnishing to the provider's maps of the affected area(s), showing the new boundaries of the town. (1997 Code, § 9-520)
- **9-521.** <u>Unauthorized use of public rights-of-way</u>. (1) A person commits an offense if a person uses the public rights-of-way to provide a telecommunications service without first securing a municipal permit from the town.
- (2) Each unauthorized use of the public rights-of-way and each unauthorized placement of facilities constitutes a separate offense. Each day a violation of this chapter occurs shall constitute a distinct and separate offense.
- (3) An offense under this subsection is punishable by a fine of five hundred dollars (\$500.00). (1997 Code, § 9-521)

TITLE 10

ANIMAL CONTROL¹

CHAPTER

- 1. IN GENERAL.
- 2. DOGS AND CATS.

CHAPTER 1

IN GENERAL

SECTION

- 10-101. Running at large prohibited.
- 10-102. Keeping near a residence or business restricted.
- 10-103. Pen or enclosure to be kept clean.
- 10-104. Storage of food.
- 10-105. Keeping in such manner as to become a nuisance prohibited.
- 10-106. Seizure and disposition of animals.
- 10-107. Violations and penalty.
- **10-101.** Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, mules, goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, or livestock, knowingly or negligently to permit any of them to run at large in any street, alley, or unenclosed lot within the corporate limits.

Any person, including its owner, knowingly or negligently permitting an animal to run at large may be prosecuted under this section even if the animal is picked up and disposed of under other provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

- **10-102.** <u>Keeping near a residence or business restricted</u>. Swine are prohibited within the corporate limits. No person shall keep or allow any other animal or fowl enumerated in the preceding section to come within one thousand feet (1,000') of any residence, place of business, or public street, as measured in a straight line.
- **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.

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

- **10-104.** <u>Storage of food</u>. All feed shall be stored and kept in a rat-proof and fly-tight building, box, or receptacle.
- 10-105. <u>Keeping in such manner as to become a nuisance prohibited</u>. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason.
- 10-106. Seizure and disposition of animals. Any animal or fowl found running at large or otherwise being kept in violation of this chapter may be seized by any police officer or other properly designated officer or official and confined in a pound provided or designated by the board of mayor and aldermen. If the owner is known he shall be given notice in person, by telephone, or by a postcard addressed to his last known mailing address. If the owner is not known or cannot be located, a notice describing the impounded animal or fowl will be posted in at least three (3) public places within the corporate limits. In either case the notice shall state that the impounded animal or fowl must be claimed within five (5) days by paying the pound costs or the same will be humanely destroyed or sold. If not claimed by the owner, the animal or fowl shall be sold or humanely destroyed.

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

10-107. <u>Violations and penalty</u>. Any violation of any section of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day the violation shall continue shall constitute a separate offense.

DOGS AND CATS

SECTION

- 10-201. Rabies vaccination and registration required.
- 10-202. Dogs to wear tags.
- 10-203. Running at large prohibited.
- 10-204. Vicious dogs.
- 10-205. Noisy dogs prohibited.
- 10-206. Confinement of dogs suspected of being rabid.
- 10-207. Seizure and disposition of dogs.
- 10-208. Destruction of vicious or infected dogs running at large.
- 10-209. Violations and penalty.
- **10-201.** Rabies vaccination and registration required. It shall be unlawful for any person to own, keep, or harbor any dog or cat without having the same duly vaccinated against rabies and registered in accordance with the provisions of the "Tennessee Anti-Rabies Law" (*Tennessee Code Annotated*, §§ 68-8-101 to 68-8-113) or other applicable law.
- 10-202. <u>Dogs to wear tags</u>. It shall be unlawful for any person to own, keep, or harbor any dog which does not wear a tag evidencing the vaccination and registration required by the preceding section.
- **10-203.** Running at large prohibited. 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.

Any person knowingly permitting a dog to run at large, including the owner of the dog, may be prosecuted under this section even if the dog is picked up and disposed of under the provisions of this chapter, whether or not the disposition includes returning the animal to its owner.

¹State law reference

10-204. <u>Vicious dogs</u>. 1 (1) <u>Definition of terms</u>:

- (a) "Owner" means any person, firm, corporation, organization or department possessing or harboring or having the care or custody of a dog, or the parents or guardian of a child claiming ownership.
 - (b) "Vicious dog" means:
 - (i) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or otherwise threaten the safety of human beings or domestic animals; or
 - (ii) Any dog which because of its size, physical nature, or vicious propensity is capable of inflicting serious physical harm or death to humans and which would constitute a danger to human life or property if it were not kept in the manner required by this ordinance: or
 - (iii) Any dog which, without provocation, attacks or bites, or has attacked or bitten, a human being or domestic animal; or
 - (iv) Any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting;
- (c) A vicious dog is "unconfined" if the dog is not securely confined indoors or confined in a securely enclosed and locked pen or structure upon the premises of the owner of the dog. The pen or structure must have secure sides and a secure top attached to the sides. If the pen or structure has no bottom secured to the sides, the sides must be embedded into the ground no less than one foot. All such pens or structures must be adequately lighted and kept in a clean and sanitary condition.
- (2) <u>Confinement</u>. The owner of a vicious dog shall not suffer or permit the dog to go unconfined.
- (3) <u>Leash and muzzle</u>. The owner of a vicious dog shall not suffer or permit the dog to go beyond the premises of the owner unless the dog is securely muzzled and restrained by a chain or leash, and under the physical restraint of a person. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
- (4) <u>Signs</u>. The owner of a vicious dog shall display in a prominent place on his or her premises a clearly visible warning sign indicating that there is a vicious dog on the premises. A similar sign is required to be posted on the pen or kennel of the animal.
- (5) <u>Dog fighting</u>. No person, firm, corporation, organization or department shall possess or harbor or maintain care or custody of any dog for the purpose of dog fighting, or train, torment, badger, bait or use any dog for the

¹See cases stating the state's authority to regulate vicious dogs: *State of Tennessee v. Denver Hartly*, 15 TAM 23-2 (Tenn. S. Ct. 1990), and *Darnell v. Shappard*, 3 S.W.2d 661 (1928).

purpose of causing or encouraging the dog to attack human beings or domestic animals.

- (6) <u>Insurance</u>. Owners of vicious dogs must within thirty (30) days of the effective date of this section provide proof to the town clerk of public liability insurance in the amount of at least one hundred thousand dollars (\$100,000.00), insuring the owner for any personal injuries inflicted by his or her vicious dog.
- (7) Penalties. Whoever violates any provision of this section shall be guilty of a gross misdemeanor and may be punished by a fine of not less than ten dollars (\$10.00) and not more than fifty dollars (\$50.00). The conviction of any owner of three (3) or more offenses under this chapter for any dog during one (1) calendar year shall require a confiscation and forfeiture of that animal based on the danger and incorrigibility of owner and animal. Failure to abide by a lawful order of forfeiture is punishable by contempt.
- **10-205.** <u>Noisy dogs prohibited</u>. No person shall own, keep, or harbor any dog which, by loud and frequent barking, whining, or howling, disturbs the peace and quiet of any neighborhood.
- 10-206. <u>Confinement of dogs suspected of being rabid</u>. If any dog has bitten any person or is suspected of having bitten any person or is for any reason suspected of being infected with rabies, the chief of police or any other properly designated officer or official may cause such dog to be confined or isolated for such time as he deems reasonably necessary to determine if such dog is rabid.
- 10-207. Seizure and disposition of dogs. Any dog found running at large may be seized by any police officer or other properly designated officer or official and placed in a pound provided or designated by the board of mayor and aldermen. If the dog is wearing a tag or found to be implanted with a microchip, the owner shall be notified in person, by telephone, or by a postcard addressed to his last-known mailing address to appear within five (5) days and redeem his dog by paying a reasonable pound fee, in accordance with a schedule approved by the board of mayor and aldermen, or the dog will be sold or humanely destroyed. If the dog is not wearing a tag it shall be sold or humanely destroyed unless legally claimed by the owner within two (2) days. No dog shall be released in any event from the pound unless or until such dog has been vaccinated and has a tag evidencing such vaccination placed on its collar.

Any new owner adopting a dog that has not been spayed or neutered must pay a twenty-five dollar (\$25.00) deposit before a dog may be released, as required by the Tennessee Spay/Neuter Law.¹

¹State law reference

10-208. <u>Destruction of vicious or infected dogs running at large</u>. When, because of its viciousness or apparent infection with rabies, a dog found running at large cannot be safely impounded it may be summarily destroyed by any policeman or other properly designated officer.¹

10-209. <u>Violations and penalty</u>. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

¹(...continued)

Spay/Neuter Law," prohibits persons from adopting a dog or cat from an agency (pound, animal shelter, etc.) operated by a municipality unless the dog or cat was already spayed or neutered, was spayed or neutered while in the custody of the agency, or the new owner signs a written agreement to have the animal spayed or neutered within 30 days of the adoption if the animal is sexually mature, or within 30 days after the animal reaches six (6) months of age if it is not sexually mature.

Before an agency may release an animal which has not been spayed or neutered it must collect a twenty-five dollar (\$25.00) deposit from the new owner to ensure compliance with the law. If the new owner does not comply with the law, the deposit is forfeited and the agency may file a petition in court to force the new owner to either comply with the law or return the animal.

An agency may not spay or neuter a dog or cat that is returned to its <u>original</u> owner within seven (7) days of its being taken into custody by the agency.

Tennessee Code Annotated, § 44-17-301, et seq.

¹State law reference

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

- 1. ALCOHOL.
- 2. OFFENSES AGAINST THE PEACE AND QUIET.
- 3. TRESPASSING AND INTERFERENCE WITH TRAFFIC.
- 4. LITTERING.

CHAPTER 1

ALCOHOL²

SECTION

- 11-101. Drinking alcoholic beverages in public, etc.
- 11-102. Minors in beer places.
- 11-103. Violations and penalty.
- 11-101. <u>Drinking alcoholic beverages in public, etc</u>. It shall be unlawful for any person to drink, consume or have an open can or bottle of beer or intoxicating liquor in or on any public street, alley, avenue, highway, sidewalk, public park, public school ground or other public place.
- 11-102. <u>Minors in beer places</u>. No person under the age of twenty-one (21) shall loiter in or around or otherwise frequent any place where beer is sold at retail for on premises consumption.
- 11-103. <u>Violations and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

¹Municipal code references

Animal control: title 10.

Fireworks and explosives: title 7. Residential and utilities: title 12.

Traffic offenses: title 15.

Streets and sidewalks (non-traffic): title 16.

²Municipal code reference

Sale of alcoholic beverages, including beer: title 8.

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

- 11-201. Anti-noise regulations.
- 11-202. Violations and penalty.
- 11-201. <u>Anti-noise regulations</u>. 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) <u>Miscellaneous prohibited noises enumerated</u>. The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:
 - (a) Radios, phonographs, etc. The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 11:00 P.M. and 7:00 A.M., as to annoy or disturb the quiet, comfort, or repose of person in any office or hospital, or in any dwelling, hotel, or other type of residence, or of any person in the vicinity.
 - (b) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.
 - (c) Pets. The keeping of any animal, bird, or fowl which by causing frequent or long continued noise shall disturb the comfort or repose of any person in the vicinity.
 - (d) Use of vehicle. The use of any automobile, motorcycle, truck, or vehicle so out of repair, so loaded, or in such manner as to cause loud and unnecessary grating, grinding, rattling, or other noise.
 - (e) 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.
 - (f) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any

residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector granted for a period while the emergency continues not to exceed thirty (30) days. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration, or repair of any building or the excavation of streets and highways between the hours of 6:00 P.M. and 7:00 A.M., and if he shall further determine that loss or inconvenience would result to any party in interest through delay, he may grant permission for such work to be done between the hours of 6:00 P.M. and 7:00 A.M. upon application being made at the time the permit for the work is awarded or during the process of the work.

- (g) 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.
- (h) 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.
- (i) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.
- (2) <u>Exceptions</u>. None of the terms or prohibitions hereof shall apply to or be enforced against:
 - (a) Town vehicles. Any vehicle of the town while engaged upon necessary public business.
 - (b) Repair of streets, etc. Excavations or repairs of bridges, streets, or highways at night, by or on behalf of the town, the county, or the state, when the public welfare and convenience renders it impracticable to perform such work during the day.
 - (c) Amplifiers and loudspeakers may be used; however, no such use shall be made until a permit therefor is secured from the board of mayor and aldermen. Hours for the use of an amplified 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.
- 11-202. <u>Violations and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

TRESPASSING AND INTERFERENCE WITH TRAFFIC

SECTION

- 11-301. Trespassing.
- 11-302. Interference with traffic.
- 11-303. Violations and penalty.

11-301. <u>Trespassing</u>. (1) On premises open to the public.

- (a) It shall be unlawful for any person to defy a lawful order, personally communicated to him by the owner or other authorized person, not to enter or remain upon the premises of another, including premises which are at the time open to the public.
- (b) The owner of the premises, or his authorized agent, may lawfully order another not to enter or remain upon the premises if such person is committing, or commits, any act which interferes with, or tends to interfere with, the normal, orderly, peaceful or efficient conduct of the activities of such premises.
- (2) On premises closed or partially closed to public. It shall be unlawful for any person to knowingly enter or remain upon the premises of another which is not open to the public, notwithstanding that another part of the premises is at the time open to the public.
- (3) <u>Vacant buildings</u>. It shall be unlawful for any person to enter or remain upon the premises of a vacated building after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.
- (4) <u>Lots and buildings in general</u>. It shall be unlawful for any person to enter or remain on or in any lot or parcel of land or any building or other structure after notice against trespass is personally communicated to him by the owner or other authorized person or is posted in a conspicuous manner.
- (5) <u>Peddlers, etc</u>. It shall also be unlawful and deemed to be a trespass for any peddler, canvasser, solicitor, transient merchant, or other person to fail to promptly leave the private premises of any person who requests or directs him to leave.¹
- 11-302. <u>Interference with traffic</u>. It shall be unlawful for any person to stand, sit, or engage in any activity whatever on any public street, sidewalk, bridge, or public ground in such a manner as to prevent, obstruct, or interfere with the free passage of pedestrian or vehicular traffic thereon.

Provisions governing peddlers: title 9, chapter 1.

¹Municipal code reference

11-303. <u>Violations and penalty</u>. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code.

LITTERING

SECTION

- 11-401. Definitions.
- 11-402. Littering offenses.
- 11-403. Scope of regulation.
- 11-404. Violations and penalty.
- **11-401. Definition**. As used in this chapter, unless the context otherwise requires:
- (1) "Garbage" includes putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food;
- (2) "Litter" includes garbage, refuse, rubbish and all other waste material, including a tobacco product as defined in *Tennessee Code Annotated*, § 39-17-1503(11) and any other item primarily designed to hold or filter a tobacco product while the tobacco is being smoked.
- (3) "Refuse" includes all putrescible and nonputrescible solid waste; and
- (4) "Rubbish" includes nonputrescible solid waste consisting of both combustible and non-combustible waste.
- **11-402.** <u>Littering offenses</u>. (1) A person commits the civil offense of littering who:
 - (a) Knowingly places, drops or throws litter on any public or private property without permission and does not immediately remove it;
 - (b) Negligently places or throws glass or other dangerous substances on or adjacent to water to which the public has access for swimming or wading, or on or within fifty feet (50') of a public highway; or
 - (c) Negligently discharges sewage, minerals, oil products or litter into any public waters or lakes within this state.
- (2) Whenever litter is placed, dropped, or thrown from any motor vehicle, boat, airplane, or other conveyance in violation of this section, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that the operator of the conveyance has committed littering.
- (3) Whenever litter discovered on public or private property is found to contain any article or articles, including, but not limited to, letters, bills, publications, or other writings that display the name of a person thereon in such a manner as to indicate that the article belongs or belonged to such person, the town judge may, in his or her discretion and in consideration of the totality of the circumstances, infer that such person has committed littering.

- 11-403. <u>Scope of regulation</u>. The regulation of litter in this chapter is limited to amounts of litter less than or equal to five pounds (5 lbs.) in weight or seven and one-half (7.5) cubic feet in volume.¹
- **11-404.** <u>Violations and penalty</u>. Littering is a civil offense punishable by a penalty under the general penalty provision of this code.

¹State law reference Tennessee Code Annotated, § 39-14-503.

TITLE 12 BUILDING, UTILITY, ETC. CODES [RESERVED FOR FUTURE USE]

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

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

CHAPTER 1

MISCELLANEOUS

SECTION

- 13-101. Smoke, soot, cinders, etc.
- 13-102. Stagnant water.
- 13-103. Weeds and grass.
- 13-104. Overgrown and dirty lots.
- 13-105. Dead animals.
- 13-106. Health and sanitation nuisances.
- 13-107. Violations and penalty.
- **13-101.** Smoke, soot, cinders, etc. It shall be unlawful for any person to permit or cause the escape of such quantities of dense smoke, soot, cinders, noxious acids, fumes, dust, or gases as to be detrimental to or to endanger the health, comfort, and safety of the public or so as to cause or have a tendency to cause injury or damage to property or business.
- **13-102.** <u>Stagnant water</u>. It shall be unlawful for any person knowingly to allow any pool of stagnant water to accumulate and stand on his property without treating it so as effectively to prevent the breeding of mosquitoes.
- 13-103. Weeds and grass. Every owner or tenant of property shall periodically cut the grass and other vegetation commonly recognized as weeds on his property, and it shall be unlawful for any person to fail to comply with an

¹Municipal code references

Animal control: title 10. Littering generally: title 11.

Littering streets, etc.: § 16-107.

Wastewater treatment: title 18, chapter 2.

order by the recorder to cut such vegetation when it has reached a height of over one foot (1').

- **13-104.** Overgrown and dirty lots. (1) Prohibition. Pursuant to the authority granted to municipalities under *Tennessee Code Annotated*, § 6-54-113, it shall be unlawful for any owner of record of real property to create, maintain, or permit to be maintained on such property the growth of trees, vines, grass, underbrush and/or the accumulations of debris, trash, litter, or garbage or any combination of the preceding elements so as to endanger the health, safety, or welfare of other citizens or to encourage the infestation of rats and other harmful animals.
- (2) <u>Designation of public officer or department</u>. The board of mayor and aldermen shall designate an appropriate department or person to enforce the provisions of this section.
- (3) Notice to property owner. It shall be the duty of the department or person designated by the board of mayor and aldermen to enforce this section to serve notice upon the owner of record in violation of subsection (1) above, a notice in plain language to remedy the condition within ten (10) days (or twenty (20) days if the owner of record is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), excluding Saturdays, Sundays, and legal holidays. The notice shall be sent by registered or certified United States Mail, addressed to the last known address of the owner of record. If no valid last known address exists for the owner of record, the town may publish the notice in a newspaper of general circulation in the county for two (2) consecutive issues, or personally deliver notice to owner. The notice shall state that the owner of the property is entitled to a hearing, and shall, at the minimum, contain the following additional information:
 - (a) A brief statement that the owner is in violation of § 13-104 of the Hornbeak Municipal Code, which has been enacted under the authority of *Tennessee Code Annotated*, § 6-54-113, and that the property of such owner may be cleaned up at the expense of the owner and a lien placed against the property to secure the cost of the clean-up;
 - (b) The person, office, address, and telephone number of the department or person giving the notice;
 - (c) A cost estimate for remedying the noted condition, which shall be in conformity with the standards of cost in the town; and
 - (d) A place wherein the notified party may return a copy of the notice, indicating the desire for a hearing.
- (4) <u>Clean-up at property owner's expense</u>. If the property owner of record fails or refuses to remedy the condition within ten (10) days after receiving the notice twenty (20) days if the owner is a carrier engaged in the transportation of property or is a utility transmitting communications, electricity, gas, liquids, steam, sewage, or other materials), the department or

person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in conformity with reasonable standards, and the costs thereof shall be assessed against the owner of the property.

- The town may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The town may bring one (1) action for debt against more than one (1) or all of the owners of properties against whom such costs have been assessed, and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. Upon the filing of the notice with the office of the register of deeds in Obion County, the costs shall be a lien on the property in favor of the municipality, second only to liens of the state, county, and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be placed on the tax rolls of the municipality as a lien and shall be added to property tax bills to be collected at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes, or
- (b) The town may bill the owner the costs to remedy or remove the condition, in the same manner as municipal real property taxes and add the amount on the real property tax notice sent to the owner. If this remedy is used by the town, the amount billed to the property owner shall not constitute a lien on any affected property or accrue penalties or interest for late payment. If the town adds such costs to the real property tax notices the town shall bear all expenses related to system modifications necessary to add the costs to the notices.
- owner-occupied residential property fails or refuses to remedy the condition within ten (10) days after receiving the notice, the department or person designated by the board of mayor and aldermen to enforce the provisions of this section shall immediately cause the condition to be remedied or removed at a cost in accordance with reasonable standards in the community, with these costs to be assessed against the owner of the property. The provisions of subsection (4) shall apply to the collection of costs against the owner of an owner-occupied residential property except that the municipality must wait until cumulative charges for remediation equal or exceed five hundred dollars (\$500.00) before filing the notice with the register of deeds and the charges becoming a lien on the property. After this threshold has been met and the lien attaches, charges for costs for which the lien attached are collectible as provided in subsection (4) for these charges.

- (6) Appeal. The owner of record who is aggrieved by the determination and order of the public officer may appeal the determination and order to the board of mayor and aldermen. The appeal shall be filed with the recorder within ten (10) days following the receipt of the notice issued pursuant to subsection (3) above. The failure to appeal within this time shall, without exception, constitute a waiver of the right to a hearing.
- (7) <u>Judicial review</u>. Any person aggrieved by an order or act of the board of mayor and aldermen under subsection (4) above may seek judicial review of the order or act. The time period established in subsection (3) above shall be stayed during the pendency of judicial review.
- (8) <u>Supplemental nature of this section</u>. The provisions of this section are in addition and supplemental to, and not in substitution for, any other provision in the municipal charter, this municipal code of ordinances or other applicable law which permits the town to proceed against an owner, tenant or occupant of property who has created, maintained, or permitted to be maintained on such property the growth of trees, vines, grass, weeds, underbrush and/or the accumulation of the debris, trash, litter, or garbage or any combination of the preceding elements, under its charter, any other provisions of this municipal code of ordinances or any other applicable law.
- **13-105.** <u>Dead animals</u>. Any person owning or having possession of any dead animal not intended for use as food shall promptly bury the same or notify the recorder and dispose of such animal in such manner as the recorder shall direct.
- **13-106.** <u>Health and sanitation nuisances</u>. 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.
- **13-107.** <u>Violations and penalty</u>. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

SLUM CLEARANCE¹

SECTION

- 13-201. Findings of board.
- 13-202. Definitions.
- 13-203. "Public officer" designated; powers.
- 13-204. Initiation of proceedings; hearings.
- 13-205. Orders to owners of unfit structures.
- 13-206. When public officer may repair, etc.
- 13-207. When public officer may remove or demolish.
- 13-208. Lien for expenses; sale of salvage materials; other powers not limited.
- 13-209. Basis for a finding of unfitness.
- 13-210. Service of complaints or orders.
- 13-211. Enjoining enforcement of orders.
- 13-212. Additional powers of public officer.
- 13-213. Powers conferred are supplemental.
- 13-214. Structures unfit for human habitation deemed unlawful.
- **13-201.** Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101, et seq., the board of mayor and aldermen finds that there exists in the town 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 town.
- **13-202.** <u>Definitions</u>. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.
- (2) "Governing body" shall mean the board of mayor and aldermen charged with governing the town.
- (3) "Municipality" shall mean the Town of Hornbeak, Tennessee, and the areas encompassed within existing town limits or as hereafter annexed.
- (4) "Owner" shall mean the holder of title in fee simple and every mortgagee of record.

Tennessee Code Annotated, title 13, chapter 21.

¹State law reference

- (5) "Parties in interest" shall mean all individuals, associations, corporations and others who have interests of record in a dwelling and any who are in possession thereof.
- (6) "Place of public accommodation" means any building or structure in which goods are supplied or services performed, or in which the trade of the general public is solicited.
- (7) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the town or state relating to health, fire, building regulations, or other activities concerning structures in the town.
- (8) "Public officer" means any officer or officers of a municipality or the executive director or other chief executive officer of any commission or authority established by such municipality or jointly with any other municipality who is authorized by this chapter to exercise the power prescribed herein and pursuant to *Tennessee Code Annotated*, § 13-21-101, *et seq*.
- (9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation.
- 13-203. <u>"Public officer" designated; powers</u>. There is hereby designated and appointed a "public officer," to be the town recorder, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the town recorder.
- 13-204. <u>Initiation of proceedings; hearings</u>. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the town charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.
- 13-205. Orders to owners of unfit structures. If, after such notice and hearing as provided for in the preceding section, the public officer determines that the structure under consideration is unfit for human occupation or use, he shall state in writing his finding of fact in support of such

determination and shall issue and cause to be served upon the owner thereof an order:

- (1) If the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent (50%) of the reasonable value), requiring the owner, within the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupation or use or to vacate and close the structure for human occupation or use; or
- (2) If the repair, alteration or improvement of said structure cannot be made at a reasonable cost in relation to the value of the structure (not to exceed fifty percent (50%) of the value of the premises), requiring the owner within the time specified in the order, to remove or demolish such structure.
- 13-206. When public officer may repair, etc. If the owner fails to comply with the order to repair, alter, or improve or to vacate and close the structure as specified in the preceding section hereof, the public officer may cause such structure to be repaired, altered, or improved, or to be vacated and closed; and the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human occupation or use. The use or occupation of this building for human occupation or use is prohibited and unlawful."
- 13-207. When public officer may remove or demolish. If the owner fails to comply with an order, as specified above, to remove or demolish the structure, the public officer may cause such structure to be removed and demolished.
- 13-208. Lien for expenses; sale of salvaged materials; other powers not limited. The amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer, as well as reasonable fees for registration, inspections and professional evaluations of the property, shall be assessed against the owner of the property, and shall, upon the certification of the sum owed being presented to the municipal tax collector, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the municipal tax collector or county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty and interest as delinquent property taxes as set forth in Tennessee Code Annotated, § 67-5-2010 and § 67-5-2410. In addition, the municipality may collect the costs assessed against the owner

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

- 13-209. <u>Basis for a finding of unfitness</u>. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the Town of Hornbeak. Such conditions may include the following (without limiting the generality of the foregoing): defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness.
- 13-210. Service of complaints or orders. Complaints or orders issued by the public officer pursuant to this chapter shall be served upon persons, either personally or by registered mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the town, or , in the absence of such newspaper, one (1) printed and published in the county and circulating in the town. 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 Obion County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law.
- 13-211. <u>Enjoining enforcement of orders</u>. Any person affected by an order issued by the public officer served pursuant to this chapter may file a bill in chancery court for an injunction restraining the public officer from carrying out the provisions of the order, and the court may, upon the filing of such suit,

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

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

- 13-212. <u>Additional powers of public officer</u>. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:
- (1) To investigate conditions of the structures in the town 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.
- 13-213. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the town with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws.

13-214. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the town 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 town.

Violations of this section shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

JUNKYARDS^{1,2}

SECTION

- 13-301. Definitions.
- 13-302. Junkyard screening.
- 13-303. Screening methods.
- 13-304. Requirements for effective screening.
- 13-305. Maintenance of screens.
- 13-306. Utilization of highway right-of-way.
- 13-307. Non-conforming junkyards.
- 13-308. Permits and fees.
- 13-309. Violations and penalty.
- **13-301.** <u>Definitions</u>. (1) "Junk" shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, trucks, vehicles of all kinds, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
- (2) "Junkyard" shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. This definition includes scrap metal processors, used auto parts yards, yards providing temporary storage of automobile bodies or parts awaiting disposal as a normal part of the business operation when the business will continually have like materials located on the premises, garbage dumps, sanitary landfills, and recycling centers.
- (3) "Person" means any individual, firm, agency, company, association, partnership, business trust, joint stock company, body politic, or corporation.
- (4) "Recycling center" means an establishment, place of business, facility or building which is maintained, operated, or used for the storing, keeping, buying, or selling of newspaper or used food or beverage containers or plastic containers for the purpose of converting such items into a usable product.
- (5) "Screening" means the use of plantings, fencing, natural objects, and other appropriate means which screen any deposit of junk so that the junk is not visible from the highways and streets of the town.

Refuse and trash disposal: title 17.

Tennessee Code Annotated, § 7-51-701.

¹Municipal code reference

²State law reference

- **13-302.** <u>Junkyard screening</u>. Every junkyard shall be screened or otherwise removed from view by its owner or operator in such a manner as to bring the junkyard into compliance with this chapter.
- **13-303.** <u>Screening methods</u>. The following methods and materials for screening are given for consideration only:
- (1) <u>Landscape planting</u>. The planting of trees, shrubs, etc., of sufficient size and density to provide a year-round effective screen. Plants of the evergreen variety are recommended.
- (2) <u>Earth grading</u>. The construction of earth mounds which are graded, shaped, and planted to a natural appearance.
 - (3) <u>Architectural barriers</u>. The utilization of:
 - (a) Panel fences made of metal, plastic, fiberglass, or plywood.
 - (b) Wood fences of vertical or horizontal boards using durable woods such as western cedar or redwood or others treated with a preservative.
 - (c) Walls of masonry, including plain or ornamented concrete block, brick, stone, or other suitable materials.
- (4) <u>Natural objects</u>. Naturally occurring rock outcrops, woods, earth mounds, etc., may be utilized for screening or used in conjunction with fences, plantings, or other appropriate objects to form an effective screen.
- **13-304.** Requirements for effective screening. Screening may be accomplished using natural objects, earth mounds, landscape plantings, fences, or other appropriate materials used singly or in combination as approved by the town. The effect of the completed screening must be the concealment of the junkyard from view on a year-round basis.
- (1) Screens which provide a "see-through" effect when viewed from a moving vehicle shall not be acceptable.
- (2) Open entrances through which junk materials are visible from the main traveled way shall not be permitted except where entrance gates, capable of concealing the junk materials when closed, have been installed. Entrance gates must remain closed from sundown to sunrise.
- (3) Screening shall be located on private property and not on any part of the highway right-of-way.
- (4) At no time after the screen is established shall junk be stacked or placed high enough to be visible above the screen nor shall junk be placed outside of the screened area.
- 13-305. <u>Maintenance of screens</u>. The owner or operator of the junkyard shall be responsible for maintaining the screen in good repair to insure the continuous concealment of the junkyard. Damaged or dilapidated screens, including dead or diseased plantings, which permit a view of the junk within

shall render the junkyard visible and shall be in violation of this code and shall be replaced as required by the town.

If not replaced within sixty (60) days the town may replace said screening and require payment upon demand.

- **13-306.** <u>Utilization of highway right-of-way</u>. The utilization of highway right-of-way for operating or maintaining any portion of a junkyard is prohibited; this shall include temporary use for the storage of junk pending disposition.
- 13-307. <u>Non-conforming junkyards</u>. Those junkyards within the town and lawfully in existence prior to the enactment of this code, which do not conform with the provisions of the code shall be considered as "non-conforming." Such junkyards shall be subject to the following conditions, any violation of which shall terminate the non-conforming status:
 - (1) The junkyard must continue to be lawfully maintained.
 - (2) There must be existing property rights in the junk or junkyard.
 - (3) Abandoned junkyards shall no longer be lawful.
- (4) The location of the junkyard may not be changed for any reason. If the location is changed, the junkyard shall be treated as a new establishment at a new location and shall conform to the laws of the town.
 - (5) The junkyard may not be extended or enlarged.
- **13-308.** Permits and fees. It shall be unlawful for any junkyard located within the town to operate without a "junkyard control permit" issued by the town.
- (1) Permits shall be valid for the fiscal year for which issued and shall be subject to renewal each year. The town's fiscal year begins on July 1 and ends on June 30 the year next following.
- (2) Each application for an original or renewal permit shall be accompanied by a fee of fifty dollars (\$50.00) which is not subject to either proration or refund.
- (3) All applications for an original or renewal permit shall be made on a form prescribed by the town.
- (4) Permits shall be issued only to those junkyards that are in compliance with these rules.
- (5) A permit is valid only while held by the permittee and for the location for which it is issued.
- **13-309.** <u>Violations and penalty</u>. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense.

JUNKED MOTOR VEHICLES

SECTION

- 13-401. Definitions.
- 13-402. Violations a civil offense.
- 13-403. Exceptions.
- 13-404. Enforcement.
- 13-405. Violations and penalty.
- **13-401.** <u>Definitions</u>. For the purpose of the interpretation and application of this chapter, the following words and phrases shall have the indicated meanings:
- (1) "Person" shall mean any natural person, or any firm, partnership, association, corporation or other organization of any kind and description.
- (2) "Private property" shall include all property that is not public property, regardless of how the property is zoned or used.
- (3) "Traveled portion of any public street or highway" shall mean the width of the street from curb to curb, or where there are no curbs, the entire width of the paved portion of the street, or where the street is unpaved, the entire width of the street in which vehicles ordinarily use for travel.
 - (4) (a) "Junk vehicle" shall mean a vehicle of any age that is damaged or defective, including but not limited to, any one or combination of any of the following ways that either makes the vehicle immediately inoperable, or would prohibit the vehicle from being operated in a reasonably safe manner upon the public streets and highways under its own power if self-propelled, or while being towed or pushed, if not self-propelled:
 - (i) Flat tires, missing tires, missing wheels, or missing or partially or totally disassembled tires and wheels.
 - (ii) Missing or partially or totally disassembled essential part or parts of the vehicle's drive train, including, but not limited to, engine, transmission, transaxle, drive shaft, differential, or axle.
 - (iii) Extensive exterior body damage or missing or partially or totally disassembled essential body parts, including, but not limited to, fenders, doors, engine hood, bumper or bumpers, windshield, or windows.
 - (iv) Missing or partially or totally disassembled essential interior parts, including, but not limited to, driver's seat, steering wheel, instrument panel, clutch, brake, gear shift lever.
 - (v) Missing or partially or totally disassembled parts essential to the starting or running of the vehicle under its own

- power, including, but not limited to, starter, generator or alternator, battery, distributor, gas tank, carburetor or fuel injection system, spark plugs, or radiator.
- (vi) Interior is a container for metal, glass, paper, rags or other cloth, wood, auto parts, machinery, waste or discarded materials in such quantity, quality and arrangement that a driver cannot be properly seated in the vehicle.
- (vii) Lying on the ground (upside down, on its side, or at other extreme angle), sitting on block or suspended in the air by any other method.
- (viii) General environment in which the vehicle sits, including, but not limited to, vegetation that has grown up around, in or through the vehicle, the collection of pools of water in the vehicle, and the accumulation of other garbage or debris around the vehicle.
- (b) "Vehicle" shall mean any machine propelled by power other than human power, designed to travel along the ground by the use of wheels, treads, self-laying tracks, runners, slides or skids, including but not limited to automobiles, trucks, motorcycles, motor scooters, go-carts, campers, tractors, trailers, tractor-trailers, buggies, wagons, and earthmoving equipment, and any part of the same.
- **13-402.** <u>Violations a civil offense</u>. It shall be unlawful and a civil offense for any person:
- (1) To park and or in any other manner place and leave unattended on the traveled portion of any public street or highway a junk vehicle for any period of time, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.
- (2) To park or in any other manner place and leave unattended on the untraveled portion of any street or highway, or upon any other public property, a junk vehicle for more than forty-eight (48) continuous hours, even if the owner or operator of the vehicle did not intend to permanently desert or forsake the vehicle.
 - (3) To park, store, keep, maintain on private property a junk vehicle.
- **13-403.** Exceptions. (1) It shall be permissible for a person to park, store, keep and maintain a junked vehicle on private property under the following conditions:
 - (a) The junk vehicle is completely enclosed within a building where neither the vehicle nor any part of it is visible from the street or from any other abutting property. However, this exception shall not exempt the owner or person in possession of the property from any zoning, building, housing, property maintenance, and other regulations governing the building in which such vehicle is enclosed.

- (b) The junk vehicle is parked or stored on property lawfully zoned for business engaged in wrecking, junking or repairing vehicles. However, this exception shall not exempt the owner or operator of any such business from any other zoning, building, fencing, property maintenance and other regulations governing business engaged in wrecking, junking or repairing vehicles.
- (2) No person shall park, store, keep and maintain on private property a junk vehicle for any period of time if it poses an immediate threat to the health and safety of citizens of the town.
- 13-404. Enforcement. Pursuant to *Tennessee Code Annotated*, § 7-63-101, the building inspector is authorized to issue ordinance summons for violations of this ordinance on private property. The building inspector shall upon the complaint of any citizen, or acting on his own information, investigate complaints of junked vehicles on private property. If after such investigation the building inspector finds a junked vehicle on private property, he shall issue an ordinance summons. The ordinance summons shall be served upon the owner or owners of the property, or upon the person or persons apparently in lawful possession of the property, and shall give notice to the same to appear and answer the charges against him or them. If the offender refuses to sign the agreement to appear, the building inspector may:
 - (1) Request the town judge to issue a summons, or
- (2) Request a police officer to witness the violation. The police officer who witnesses the violation may issue the offender a citation in lieu of arrest as authorized by *Tennessee Code Annotated*, § 7-63-101 *et seq.*, or if the offender refuses to sign the citation, may arrest the offender for failure to sign the citation in lieu of arrest.
- 13-405. <u>Violations and penalty</u>. Any person violating this chapter shall be subject to a civil penalty of fifty dollars (\$50.00) plus court costs for each separate violation of this chapter. In addition, pursuant to *Tennessee Code Annotated*, § 55-5-122, the municipal court may issue an order to remove vehicles from private property. Each day the violation of this chapter continues shall be considered a separate violation.

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. ZONING ORDINANCE.

CHAPTER 1

ZONING ORDINANCE

SECTION

14-101. Land use to be governed by zoning ordinance.

14-101. Land use to be governed by zoning ordinance. Land use within the Town of Hornbeak shall be governed by Ordinance #2003-01, titled "Zoning Ordinance of Hornbeak, Tennessee," and any amendments thereto. (1997 Code, § 14-101)

¹Ordinance #2003-01, and any amendments thereto, are included as Appendix A of this code.

Amendments to the zoning map are of record in the office of the town engineer.

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING¹

CHAPTER

- 1. MISCELLANEOUS.
- 2. EMERGENCY VEHICLES.
- 3. SPEED LIMITS.
- 4. TURNING MOVEMENTS.
- 5. STOPPING AND YIELDING.
- 6. PARKING.
- 7. ENFORCEMENT.

CHAPTER 1

MISCELLANEOUS²

SECTION

- 15-101. Motor vehicle requirements.
- 15-102. Driving on streets closed for repairs, etc.
- 15-103. One-way streets.
- 15-104. Unlaned streets.
- 15-105. Laned streets.
- 15-106. Yellow lines.
- 15-107. Miscellaneous traffic-control signs, etc.
- 15-108. General requirements for traffic-control signs, etc.
- 15-109. Unauthorized traffic-control signs, etc.
- 15-110. Presumption with respect to traffic-control signs, etc.
- 15-111. School safety patrols.
- 15-112. Driving through funerals or other processions.

Excavations and obstructions in streets, etc.: title 16.

Under *Tennessee Code Annotated*, § 55-10-307, the following offenses are exclusively state offenses and must be tried in a state court or a court having state jurisdiction: driving while intoxicated or drugged, as prohibited by *Tennessee Code Annotated*, § 55-10-401; failing to stop after a traffic accident, as prohibited by *Tennessee Code Annotated*, § 55-10-101, *et seq.*; driving while license is suspended or revoked, as prohibited by *Tennessee Code Annotated*, § 55-50-501 *et seq.*; and drag racing, as prohibited by *Tennessee Code Annotated*, § 55-10-501.

¹Municipal code reference

²State law references

- 15-113. Clinging to vehicles in motion.
- 15-114. Riding on outside of vehicles.
- 15-115. Backing vehicles.
- 15-116. Projections from the rear of vehicles.
- 15-117. Causing unnecessary noise.
- 15-118. Vehicles and operators to be licensed.
- 15-119. Passing.
- 15-120. Damaging pavements.
- 15-121. Basketball goals alongside or within public rights-of-way.
- 15-122. Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc.
- 15-123. Delivery of vehicle to unlicensed driver, etc.
- 15-124. Compliance with financial responsibility law required.
- 15-125. Adoption of state traffic statutes.
- **15-101.** <u>Motor vehicle requirements</u>. 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. (1997 Code, § 15-101)
- **15-102.** <u>Driving on streets closed for repairs, etc</u>. 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. (1997 Code, § 15-102)
- **15-103.** <u>One-way streets</u>. 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. (1997 Code, § 15-104)
- **15-104.** <u>Unlaned streets</u>. (1) Upon all unlaned streets of sufficient width, a vehicle shall be driven upon the right half of the street except:
 - (a) When lawfully overtaking and passing another vehicle proceeding in the same direction.
 - (b) When the right half of a roadway is closed to traffic while under construction or repair.
 - (c) Upon a roadway designated and signposted by the municipality for one-way traffic.
- (2) All vehicles proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn. (1997 Code, § 15-105)

15-105. <u>Laned streets</u>. 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. (1997 Code, § 15-106)

- **15-106.** Yellow lines. On streets with a yellow line placed to the right of any lane line or centerline, such yellow line shall designate a no-passing zone, and no operator shall drive his vehicle or any part thereof across or to the left of such yellow line except when necessary to make a lawful left turn from such street. (1997 Code, § 15-107)
- **15-107.** <u>Miscellaneous traffic-control signs, etc</u>. 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 town unless otherwise directed by a police officer.

No person shall willfully fail or refuse to comply with any lawful order of any police officer invested by law with the authority to direct, control or regulate traffic.

- 15-108. General requirements for traffic-control signs, etc. Pursuant to *Tennessee Code Annotated*, § 54-5-108, all traffic control signs, signals, markings, and devices shall conform to the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*.² and shall be uniform as to type and location throughout the town.
- **15-109.** <u>Unauthorized traffic-control signs, etc</u>. 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

Stop signs, yield signs, flashing signals, pedestrian control signs, traffic control signals generally: §§ 15-505--15-509.

¹Municipal code references

²For the latest revision of the *Tennessee Manual on Uniform Traffic Control Devices for Streets and Highways*, see the Official Compilation of the Rules and Regulations of the State of Tennessee, § 1680-3-1, *et seq*.

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. (1997 Code, § 15-110)

- 15-110. <u>Presumption with respect to traffic-control signs, etc.</u> 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. (1997 Code, § 15-111)
- 15-111. <u>School safety patrols</u>. 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. (1997 Code, § 15-112)
- 15-112. <u>Driving through funerals or other processions</u>. 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. (1997 Code, § 15-113)
- **15-113.** Clinging to vehicles in motion. It shall be unlawful for any person traveling upon any bicycle, motorcycle, coaster, sled, roller skates, or any other vehicle to cling to, or attach himself or his vehicle to any other moving vehicle upon any street, alley, or other public way or place. (1997 Code, § 15-114)
- **15-114.** Riding on outside of vehicles. It shall be unlawful for any person to ride, or for the owner or operator of any motor vehicle being operated on a street, alley, or other public way or place, to permit any person to ride on any portion of such vehicle not designed or intended for the use of passengers. This section shall not apply to persons engaged in the necessary discharge of lawful duties nor to persons riding in the load-carrying space of trucks. (1997 Code, § 15-115)
- **15-115.** Backing vehicles. The driver of a vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (1997 Code, § 15-116)

- 15-116. Projections from the rear of vehicles. Whenever the load or any projecting portion of any vehicle shall extend beyond the rear of the bed or body thereof, the operator shall display at the end of such load or projection, in such position as to be clearly visible from the rear of such vehicle, a red flag being not less than twelve (12) inches square. Between one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise, there shall be displayed in place of the flag a red light plainly visible under normal atmospheric conditions at least two hundred feet (200') from the rear of such vehicle. (1997 Code, § 15-117)
- **15-117.** <u>Causing unnecessary noise</u>. It shall be unlawful for any person to cause unnecessary noise by unnecessarily sounding the horn, "racing" the motor, or causing the "screeching" or "squealing" of the tires on any motor vehicle. (1997 Code, § 15-118)
- 15-118. <u>Vehicles and operators to be licensed</u>. It shall be unlawful for any person to operate a motor vehicle in violation of the "Tennessee Motor Vehicle Title and Registration Law," being *Tennessee Code Annotated* §§ 55-1-101 *et seq.*, or the "Uniform Classified and Commercial Driver License Act of 1988," being *Tennessee Code Annotated* §§ 55-8-101 to 55-8-131. (modified)
- 15-119. <u>Passing</u>. Except when overtaking and passing on the right is permitted, the driver of a vehicle passing another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the street until safely clear of the overtaken vehicle. The driver of the overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

When the street is wide enough, the driver of a vehicle may overtake and pass upon the right of another vehicle which is making or about to make a left turn.

The driver of a vehicle may overtake and pass another vehicle proceeding in the same direction either upon the left or upon the right on a street of sufficient width for four (4) or more lanes of moving traffic when such movement can be made in safety.

No person shall drive off the pavement or upon the shoulder of the street in overtaking or passing on the right.

When any vehicle has stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the street, no operator of any other vehicle approaching from the rear shall overtake and pass such stopped vehicle.

No vehicle operator shall attempt to pass another vehicle proceeding in the same direction unless he can see that the way ahead is sufficiently clear and unobstructed to enable him to make the movement in safety. (1997 Code, § 15-120) **15-120.** <u>Damaging pavements</u>. No person shall operate or cause to be operated upon any street of the municipality any vehicle, motor propelled or otherwise, which by reason of its weight or the character of its wheels, tires, or track is likely to damage the surface or foundation of the street. (1997 Code, § 15-121)

15-121. <u>Basketball goals alongside or within public rights-of-way</u>.

- (1) No portable or fixed basketball goal shall be placed, erected or maintained on or alongside the right-of-way of any public street within the municipal limits of the Town of Hornbeak so as to allow a person or persons to play within the street. The placement of any basketball goal within a public right-of-way or the presence of persons within a public street playing basketball on such a goal shall be a violation of this section.
- (2) Any violation of this section shall be punishable by a fine of fifty dollars (\$50.00). (1997 Code, § 15-123)

15-122. <u>Motorcycles, motor driven cycles, motorized bicycles, bicycles, etc</u>. (1) <u>Definitions</u> For the purpose of the application of this section, the following words shall have the definitions indicated:

- (a) "Motorcycle." Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, including a vehicle that is fully enclosed, has three (3) wheels in contact with the ground, weighs less than one thousand five hundred pounds (1,500 lbs.), and has the capacity to maintain posted highway speed limits, but excluding a tractor or motorized bicycle.
- (b) "Motor-driven cycle." Every motorcycle, including every motor scooter, with a motor which produces not to exceed five (5) brake horsepower, or with a motor with a cylinder capacity not exceeding one hundred and twenty-five cubic centimeters (125cc);
- (c) "Motorized bicycle." A vehicle with two (2) or three (3) wheels, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty (50) cubic centimeters which produces no more than two (2) brake horsepower and is capable of propelling the vehicle at a maximum design speed of no more than thirty (30) miles per hour on level ground.
- (2) Every person riding or operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall be subject to the provisions of all traffic ordinances, rules, and regulations of the town applicable to the driver or operator of other vehicles except as to those provisions which by their nature can have no application to bicycles, motorcycles, motor driven cycles, or motorized bicycles.
- (3) No person operating or riding a bicycle, motorcycle, motor driven cycle or motorized bicycle shall ride other than upon or astride the permanent

and regular seat attached thereto, nor shall the operator carry any other person upon such vehicle other than upon a firmly attached and regular seat thereon.

- (4) No bicycle, motorcycle, motor driven cycle or motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.
- (5) No person operating a bicycle, motorcycle, motor driven cycle or motorized bicycle shall carry any package, bundle, or article which prevents the rider from keeping both hands upon the handlebars.
- (6) No person under the age of sixteen (16) years shall operate any motorcycle, motor driven cycle or motorized bicycle while any other person is a passenger upon said motor vehicle.
 - (7) (a) Each driver of a motorcycle, motor driven cycle, or motorized bicycle and any passenger thereon shall be required to wear on his head, either a crash helmet meeting federal standards contained in 49 CFR 571.218, or, if such driver or passenger is twenty-one (21) years of age or older, a helmet meeting the following requirements:
 - (i) Except as provided in subdivisions (a)(ii)-(iv), the helmet shall meet federal motor vehicle safety standards specified in 49 CFR 571.218;
 - (ii) Notwithstanding any provision in 49 CFR 571.218 relative to helmet penetration standards, ventilation airways may penetrate through the entire shell of the helmet; provided, that no ventilation airway shall exceed one and one-half inches (1 1/2") in diameter;
 - (iii) Notwithstanding any provision in 49 CFR 571.218, the protective surface shall not be required to be a continuous contour; and
 - (iv) Notwithstanding any provision in 49 CFR 571.218 to the contrary, a label on the helmet shall be affixed signifying that such helmet complies with the requirements of the American Society for Testing Materials (ASTM), the Consumer Product Safety Commission (CSPM), or the Snell Memorial Foundation, Inc.
 - (b) This section does not apply to persons riding:
 - (i) Within an enclosed cab:
 - (ii) Motorcycles that are fully enclosed, have three (3) wheels in contact with the ground, weigh less than one thousand five hundred pounds (1,500 lbs.) and have the capacity to maintain posted highway speed limits;
 - (iii) Golf carts: or
 - (iv) In a parade, at a speed not to exceed thirty (30) miles per hour, if the person is eighteen (18) years or older.
- (8) Every motorcycle, motor driven cycle, or motorized bicycle operated upon any public way within the corporate limits shall be equipped with a

windshield or, in the alternative, the operator and any passenger on any such motorcycle, motor driven cycle or motorized bicycle shall be required to wear safety goggles, faceshield or glasses containing impact resistant lens for the purpose of preventing any flying object from striking the operator or any passenger in the eyes.

(9) It shall be unlawful for any person to operate or ride on any vehicle in violation of this section, and it shall also be unlawful for any parent or guardian knowingly to permit any minor to operate a motorcycle, motor driven cycle or motorized bicycle in violation of this section.

15-123. Delivery of vehicle to unlicensed driver, etc.

- (1) <u>Definitions</u>. (a) "Adult" shall mean any person eighteen (18) years of age or older.
- (b) "Automobile" shall mean any motor driven automobile, car, truck, tractor, motorcycle, motor driven cycle, motorized bicycle, or vehicle driven by mechanical power.
- (c) "Custody" means the control of the actual, physical care of the juvenile, and includes the right and responsibility to provide for the physical, mental, moral and emotional well being of the juvenile. "Custody" as herein defined, relates to those rights and responsibilities as exercised either by the juvenile's parent or parents or a person granted custody by a court of competent jurisdiction.
- (d) "Drivers license" shall mean a motor vehicle operators license or chauffeurs license issued by the State of Tennessee.
- (e) "Juvenile" as used in this chapter shall mean a person less than eighteen years of age, and no exception shall be made for a juvenile who has been emancipated by marriage or otherwise.
- (2) It shall be unlawful for any adult to deliver the possession of or the control of any automobile or other motor vehicle to any person, whether an adult or a juvenile, who does not have in his possession a valid motor vehicle operators or chauffeurs license issued by the Department of Safety of the State of Tennessee, or for any adult to permit any person, whether an adult or a juvenile, to drive any motor vehicle upon the streets, highways, roads, avenues, parkways, alleys or public thoroughfares in the town unless such person has a valid motor vehicle operators or chauffeurs license as issued by the Department of Safety of the State of Tennessee.
- (3) It shall be unlawful for any parent or person having custody of a juvenile to permit any such juvenile to drive a motor vehicle upon the streets, highways, roads, parkways, avenues or public ways in the town in a reckless, careless, or unlawful manner, or in such a manner as to violate the ordinances of the town.

15-124. Compliance with financial responsibility law required.

- (1) This section shall apply to every vehicle subject to the state registration and certificate of title provisions.
- (2) At the time the driver of a motor vehicle is charged with any moving violation under *Tennessee Code Annotated*, title 55, chapters 8 and 10, parts 1-5, chapter 50; any provision in this title of this municipal code; or at the time of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request evidence of financial responsibility as required by this section. In case of an accident for which notice is required under *Tennessee Code Annotated*, § 55-10-106, the officer shall request such evidence from all drivers involved in the accident, without regard to apparent or actual fault. For the purposes of this section, "financial responsibility" shall be defined by *Tennessee Code Annotated*, § 55-12-139:
- (3) It is a civil offense to fail to provide evidence of financial responsibility pursuant to this section. Any violation is punishable by a civil penalty of up to fifty dollars (\$50.00).
- (4) The penalty imposed by this section shall be in addition to any other penalty imposed by the laws of this state or this municipal code.
- (5) On or before the court date, the person so charged may submit evidence of financial responsibility at the time of the violation. If it is the person's first violation of this section and the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility shall be dismissed. Upon the person's second or subsequent violation of this section, if the court is satisfied that the financial responsibility was in effect at the time of the violation, the charge of failure to provide evidence of financial responsibility may be dismissed. Any charge that is dismissed pursuant to this subsection shall be dismissed without costs to the defendant and no litigation tax shall be due or collected, notwithstanding any law to the contrary.
- **15-125.** Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the town adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 to 55-8-131, and §§ 55-8-133 to 55-8-180. Additionally, the town adopts *Tennessee Code Annotated*, § 55-4-101 through 55-4-135, §§ 55-8-181 to 55-8-193, §§ 55-8-199, 55-8-204, §§ 55-9-601 to 55-9-606, § 55-12-139, § 55-21-108, and § 55-50-351 by reference as if fully set forth in this section.

EMERGENCY VEHICLES

- 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. (1997 Code, § 15-201)
- 15-202. Operation of authorized emergency vehicles. ¹(1) The driver of an authorized emergency vehicle, when responding to an emergency call, or when in the pursuit of an actual or suspected violator of the law, or when responding to, but not upon returning from, a fire alarm may exercise the privileges set forth in this section, subject to the conditions herein stated.
- (2) The driver of an authorized emergency vehicle may park or stand, irrespective of the provisions of this title; proceed past a red or stop signal or stop sign, but only after slowing down to ascertain that the intersection is clear; exceed the maximum speed limit and disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property.
- (3) The exemptions herein granted for an authorized emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds an audible signal by bell, siren, or exhaust whistle, and when the vehicle is equipped with at least one (1) lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.
- (4) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (1997 Code, § 15-202)

¹Municipal code reference

Operation of other vehicle upon the approach of emergency vehicles: § 15-501.

- **15-203.** Following emergency vehicles. No driver of any vehicle shall follow any authorized emergency vehicle apparently traveling in response to an emergency call closer than five hundred feet (500') or drive or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (1997 Code, § 15-203)
- **15-204.** Running over fire hoses, etc. It shall be unlawful for any person to drive over any hose lines or other equipment of the fire department except in obedience to the direction of a firefighter or police officer. (1997 Code, § 15-204)

SPEED LIMITS

SECTION

- 15-301. In general.
- 15-302. At intersections.
- 15-303. In school zones.
- 15-304. In congested areas.
- **15-301.** <u>In general</u>. 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. (1997 Code, § 15-301)
- **15-302.** At intersections. It shall be unlawful for any person to operate or drive a motor vehicle through any intersection at a rate of speed in excess of fifteen (15) miles per hour unless such person is driving on a street regulated by traffic-control signals or signs which require traffic to stop or yield on the intersecting streets. (1997 Code, § 15-302)
- 15-303. <u>In school zones</u>. Pursuant to *Tennessee Code Annotated*, § 55-8-152, the town shall have the authority to enact special speed limits in school zones. Such special speed limits shall be enacted based on an engineering investigation; shall not be less than fifteen (15) miles per hour; and shall be in effect only when proper signs are posted with a warning flasher or flashers in operation. It shall be unlawful for any person to violate any such special speed limit enacted and in effect in accordance with this paragraph.

In school zones where the board of mayor and aldermen has not established special speed limits as provided for above, any person who shall drive at a speed exceeding fifteen (15) miles per hour when passing a school during a recess period when a warning flasher or flashers are in operation, or during a period of ninety (90) minutes before the opening hour of a school, or a period of ninety (90) minutes after the closing hour of a school, while children are actually going to or leaving school, shall be prima facie guilty of reckless driving.

15-304. <u>In congested areas</u>. It shall be unlawful for any person to operate or drive a motor vehicle through any congested area at a rate of speed in excess of any posted speed limit when such speed limit has been posted by authority of the municipality. (1997 Code, § 15-304)

TURNING MOVEMENTS

- 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. (1997 Code, § 15-401)
- **15-402.** <u>Right turns</u>. 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. (1997 Code, § 15-402)
- 15-403. <u>Left turns on two-way roadways</u>. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of the intersection of the centerline of the two (2) roadways. (1997 Code, § 15-403)
- 15-404. <u>Left turns on other than two-way roadways</u>. At any intersection where traffic is restricted to one (1) direction on one (1) or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (1997 Code, § 15-404)
 - **15-405.** <u>U-turns</u>. U-turns are prohibited. (1997 Code, § 15-405)

¹State law reference

Tennessee Code Annotated, § 55-8-143.

STOPPING AND YIELDING

- 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 "stop" signs.
- 15-505. At "yield" signs.
- 15-506. At traffic-control signals generally.
- 15-507. At flashing traffic-control signals.
- 15-508. At pedestrian control signals.
- 15-509. Stops to be signaled.
- 15-501. 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. (1997 Code, § 15-501)
- 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. (1997 Code, § 15-502)
- **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. (1997 Code, § 15-503)
- **15-504.** At "stop" signs. The driver of a vehicle facing a "stop" sign shall bring his vehicle to a complete stop immediately before entering the crosswalk

¹Municipal code reference

Special privileges of emergency vehicles: title 15, chapter 2.

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. (1997 Code, § 15-504)

- **15-505.** At "yield" signs. The drivers of all vehicles shall yield the right-of-way to approaching vehicles before proceeding at all places where "yield" signs have been posted. (1997 Code, § 15-505)
- **15-506.** At traffic-control signals generally. Traffic-control signals exhibiting the words "Go," "Caution," or "Stop," or exhibiting different colored lights successively one (1) at a time, or with arrows, shall show the following colors only and shall apply to drivers of vehicles and pedestrians as follows:

(1) Green alone, or "Go."

- (a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- (b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow alone, or "Caution."

- (a) Vehicular traffic facing the signal is thereby warned that the red or "Stop" signal will be exhibited immediately thereafter, and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.
- (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

(3) Steady red alone, or "Stop."

- (a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or "Go" is shown alone. Provided, however, that a right turn on a red signal shall be permitted at all intersections within the town, provided that the prospective turning car comes to a full and complete stop before turning and that the turning car yields the right-of-way to pedestrians and cross traffic traveling in accordance with their traffic signal. However, said turn will not endanger other traffic lawfully using said intersection. A right turn on red shall be permitted at all intersections except those clearly marked by a "No Turns On Red" sign, which may be erected by the town at intersections which the town decides require no right turns on red in the interest of traffic safety.
- (b) Pedestrians facing such signal shall not enter the roadway unless authorized so to do by a pedestrian "Walk" signal.

- (4) 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. (1997 Code, § 15-506)
- 15-507. <u>At flashing traffic-control signals</u>. Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal placed or erected in the municipality it shall require obedience by vehicular traffic as follows:
- (1) <u>Flashing red (stop signal)</u>. 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.
- (2) <u>Flashing yellow (caution signal)</u>. When a yellow lens is illuminated with intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (1997 Code, § 15-507)
- **15-508.** At pedestrian control signals. Wherever special pedestrian control signals exhibiting the words "Walk" or "Wait" or "Don't Walk" have been placed or erected by the municipality, such signals shall apply as follows:
- (1) "Walk." Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (2) "Wait or Don't Walk." No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to the nearest sidewalk or safety zone while the wait signal is showing. (1997 Code, § 15-508)
- **15-509.** Stops to be signaled. No person operating a motor vehicle shall stop such vehicle, whether in obedience to a traffic sign or signal or otherwise, without first signaling his intention in accordance with the requirements of the state law, except in an emergency. (1997 Code, § 15-509)

¹State law reference

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.

15-601. <u>Generally</u>. No person shall leave any motor vehicle unattended on any street without first setting the brakes thereon, stopping the motor, removing the ignition key, and turning the front wheels of such vehicle toward the nearest curb or gutter of the street.

Except as hereinafter provided, every vehicle parked upon a street within this town shall be so parked that its right wheels are approximately parallel to and within eighteen inches (18") of the right edge or curb of the street. On one-way streets where the town has not placed signs prohibiting the same, vehicles may be permitted to park on the left side of the street, and in such cases the left wheels shall be required to be within eighteen inches (18") of the left edge or curb of the street.

Notwithstanding anything else in this code to the contrary, no person shall park or leave a vehicle parked on any public street or alley within the fire limits between the hours of 10:00 P.M. and 5:00 A.M.

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. (1997 Code, § 15-601)

- **15-602.** Angle parking. On those streets which have been signed or marked by the town for angle parking, no person shall park or stand a vehicle other than at the angle indicated by such signs or markings. No person shall angle park any vehicle which has a trailer attached thereto or which has a length in excess of twenty-four feet (24'). (1997 Code, § 15-602)
- 15-603. Occupancy of more than one space. No person shall park a vehicle in any designated parking space so that any part of such vehicle occupies more than one (1) such space or protrudes beyond the official markings on the street or curb designating such space unless the vehicle is too large to be parked within a single designated space. (1997 Code, § 15-603)
- **15-604.** Where prohibited. No person shall park a vehicle in violation of any sign placed or erected by the state or town, nor:

- (1) On a sidewalk; provided, however, a bicycle may be parked on a sidewalk if it does not impede the normal and reasonable movement of pedestrian or other traffic.
 - (2) In front of a public or private driveway.
 - (3) Within an intersection.
 - (4) Within fifteen feet (15') of a fire hydrant.
 - (5) Within a pedestrian crosswalk.
 - (6) Within twenty feet (20') of a crosswalk at an intersection.
- (7) Within thirty feet (30') upon the approach of any flashing beacon, stop sign or traffic-control signal located at the side of a roadway.
 - (8) Within fifty feet (50') of the nearest rail of a railroad crossing.
- (9) Within twenty feet (20') of the driveway entrance to any fire station, and on the side of the street opposite the entrance to any fire station within seventy-five feet (75') of such entrance when properly signposted.
 - (10) Upon any bridge or any elevated structure upon a highway.
- (11) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (12) In a parking space clearly identified by an official sign as being reserved for the physically handicapped unless, however, that the person driving the vehicle is:
 - (a) Physically handicapped; or
 - (b) Parking such vehicle for the benefit of a physically handicapped person.

A vehicle parking in such a space shall display a certificate of identification or a disabled veteran's license plate issued under *Tennessee Code Annotated*, §§ 55-21-103 and 55-4-256. (1997 Code, § 15-604, modified)

- **15-605.** <u>Loading and unloading zones</u>. No person shall park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers or merchandise in any place marked by the town as a loading and unloading zone. (1997 Code, § 15-605)
- **15-606.** <u>Presumption with respect to illegal parking</u>. 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. (1997 Code, § 15-606)

ENFORCEMENT

- 15-701. Issuance of traffic citations.
- 15-702. Failure to obey citation.
- 15-703. Illegal parking.
- 15-704. Impoundment of vehicles.
- 15-705. Disposal of abandoned motor vehicles.
- 15-706. Violations and penalty.
- 15-701. <u>Issuance of traffic citations</u>. When a police officer halts a traffic violator other than for the purpose of giving a warning, he shall take the name, address, and operator's license number of said person, the license number of the motor vehicle involved, and such other pertinent information as may be necessary, and shall issue to him a written traffic citation containing a notice to answer to the charge against him in the town court at a specified time. The officer, upon receiving the written promise of the alleged violator to answer as specified in the citation, shall release such person from custody. It shall be unlawful for any alleged violator to give false or misleading information as to his name or address.
- **15-702.** <u>Failure to obey citation</u>. 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. (1997 Code, § 15-702)
- 15-703. <u>Illegal parking</u>. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by this code, the officer finding such vehicle shall take its license number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a citation for the driver and/or owner to answer for the violation within ten (10) days during the hours and at a place specified in the citation. (1997 Code, § 15-703)

¹Municipal code reference

Issuance of citations in lieu of arrest and ordinance summonses in non-traffic related offenses: title 6, chapter 3.

State law reference

Tennessee Code Annotated, § 7-63-101, et seq.

- 15-704. Impoundment of vehicles. Members of the police department are hereby authorized, when reasonably necessary for the security of the vehicle or to prevent obstruction of traffic, to remove from the streets and impound any vehicle whose operator is arrested or any unattended vehicle which is parked so as to constitute an obstruction or hazard to normal traffic. Any impounded vehicle shall be stored until the owner or other person entitled thereto, claims it, gives satisfactory evidence of ownership or right to possession, and pays all applicable fees and costs, or until otherwise lawfully disposed of. The fee for impounding a vehicle shall be five dollars (\$5.00) and the storage cost shall be one dollar (\$1.00) for each twenty-four (24) hour period or fraction thereof that the vehicle is stored. (1997 Code, § 15-704)
- **15-705.** <u>Disposal of abandoned motor vehicles.</u> "Abandoned motor vehicles," as defined in *Tennessee Code Annotated*, § 55-16-103, shall be impounded and disposed of by the police department in accordance with the provisions of *Tennessee Code Annotated*, §§ 55-16-103 to 55-16-109. (1997 Code, § 15-705)
- **15-706.** <u>Violations and penalty</u>. Any violation of this title shall be a civil offense punishable as follows:
- (1) <u>Traffic citations</u>. Traffic citations shall be punishable by a civil penalty up to fifty dollars (\$50.00) for each separate offense.
- (2) <u>Parking citations</u>. For parking violations, the offender may, within ten (10) days, have the charge against him disposed of by paying to the town recorder a fine of three dollars (\$3.00), provided, he waives his right to a judicial hearing. If he appears and waives his right to a judicial hearing after ten (10) days but before a warrant is issued for his arrest, his civil penalty shall be five dollars (\$5.00). (1997 Code, § 15-706)

TITLE 16

STREETS AND SIDEWALKS, ETC.

CHAPTER

- 1. MISCELLANEOUS.
- 2. EXCAVATIONS.

CHAPTER 1

MISCELLANEOUS

- 16-101. Obstructing streets, alleys, or sidewalks prohibited.
- 16-102. Trees projecting over streets, etc., regulated.
- 16-103. Trees, etc., obstructing view at intersections prohibited.
- 16-104. Projecting signs and awnings, etc., restricted.
- 16-105. Banners and signs across streets and alleys restricted.
- 16-106. Gates or doors opening over streets, alleys, or sidewalks prohibited.
- 16-107. Obstruction of drainage ditches.
- 16-108. Abutting occupants to keep sidewalks clean, etc.
- 16-109. Parades, etc., regulated.
- 16-110. Operation of trains at crossings regulated.
- 16-111. Animals and vehicles on sidewalks.
- 16-112. Fires in streets, etc.
- 16-113. Violations and penalty.
- **16-101.** <u>Obstructing streets, alleys, or sidewalks prohibited</u>. No person shall use or occupy any portion of any public street, alley, sidewalk, or right-of-way for the purpose of storing, selling, or exhibiting any goods, wares, merchandise, or materials. (1997 Code, § 16-101)
- **16-102.** <u>Trees projecting over streets, etc., regulated</u>. It shall be unlawful for any property owner or occupant to allow any limbs of trees on his property to project over any street or alley at a height of less than fourteen feet (14') or over any sidewalk at a height of less than eight feet (8'). (1997 Code, § 16-102)
- 16-103. <u>Trees, etc., obstructing view at intersections prohibited</u>. 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. (1997 Code, § 16-103)

- **16-104.** Projecting signs and awnings, etc., restricted. Signs, awnings, or other structures which project over any street or other public way shall be erected subject to the requirements of the building code. (1997 Code, § 16-104)
- **16-105.** Banners and signs across streets and alleys restricted. It shall be unlawful for any person to place or have placed any banner or sign across or above any public street or alley except when expressly authorized by the board of mayor and aldermen after a finding that no hazard will be created by such banner or sign. (1997 Code, § 16-105)
- **16-106.** Gates or doors opening over streets, alleys, or sidewalks **prohibited**. It shall be unlawful for any person owning or occupying property to allow any gate or door to swing open upon or over any street, alley, or sidewalk except when required by law. (1997 Code, § 16-106)
- **16-107.** Obstruction of drainage ditches. It shall be unlawful for any person to permit or cause the obstruction of any drainage ditch in any public right-of-way. (1997 Code, § 16-108)
- 16-108. Abutting occupants to keep sidewalks clean, etc. The occupants of property abutting on a sidewalk are required to keep the sidewalk clean. Also, immediately after a snow or sleet, such occupants are required to remove all accumulated snow and ice from the abutting sidewalk. (1997 Code, § 16-109)
- **16-109.** Parades, etc., regulated. It shall be unlawful for any person, club, organization, or other group to hold any meeting, parade, demonstration, or exhibition on the public streets without some responsible representative first securing a permit from the recorder. (1997 Code, § 16-110)
- **16-110.** Operation of trains at crossings regulated. No person shall operate any railroad train across any street or alley without giving a warning of its approach as required by state law. It shall also be unlawful to stop a railroad train so as to block or obstruct any street or alley for a period of more than five (5) consecutive minutes. (1997 Code, § 16-111)
- **16-111.** Animals and vehicles on sidewalks. It shall be unlawful for any person to ride, lead, or tie any animal, or ride, push, pull, or place any vehicle across or upon any sidewalk in such manner as 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. (1997 Code, § 16-112)

- **16-112.** <u>Fires in streets, etc</u>. It shall be unlawful for any person to set or contribute to any fire in any public street, alley, or sidewalk. (1997 Code, § 16-113)
- **16-113.** <u>Violations and penalty</u>. Violations of this chapter shall subject the offender to a penalty under the general penalty provision of this code. (1997 Code, § 16-114)

EXCAVATIONS

- 16-201. Permit required.
- 16-202. Applications.
- 16-203. Fee.
- 16-204. Deposit or bond.
- 16-205. Safety restrictions on excavations.
- 16-206. Restoration of streets, etc.
- 16-207. Insurance.
- 16-208. Time limits.
- 16-209. Supervision.
- 16-210. Violations and penalty.
- 16-201. Permit required. It shall be unlawful for any person, firm, corporation, association, or others, including utility districts to make any excavation in any street, alley, or public place, or to tunnel under any street, alley, or public place without having first obtained a permit as herein required, and without complying with the provisions of this chapter; and it shall also be unlawful to violate, or vary from, the terms of any such permit; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately and a permit cannot reasonably and practicably be obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the town recorder is open for business, and the permit shall be retroactive to the date when the work was begun. (1997 Code, § 16-201)
- 16-202. <u>Applications</u>. Applications for such permits shall be made to the town 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 to the work to be done. Such application shall be rejected or approved by the town recorder within twenty-four (24) hours of its filing. (1997 Code, § 16-202)
- **16-203. Fee**. The fee for such permits shall be fifty dollars (\$50.00). (modified)

16-204. Deposit or bond. No such permit shall be issued unless and until the applicant therefor has deposited with the town recorder a cash deposit. The deposit shall be in the sum of five hundred dollars (\$500.00) if no pavement is involved or one thousand dollars (\$1,000.00) if the excavation is in a paved area and shall ensure the proper restoration of the ground and laying of the pavement, if any. Where the amount of the deposit is clearly inadequate to cover the cost of restoration, the town recorder may increase the amount of the deposit to an amount considered by him to be adequate to cover the cost. From this deposit shall be deducted the expense to the town of relaying the surface of the ground or pavement, and of making the refill if this is done by the town or at its expense. The balance shall be returned to the applicant without interest after the tunnel or excavation is completely refilled and the surface or pavement is restored.

In lieu of a deposit the applicant may deposit with the town recorder a surety bond in such form and amount as the town recorder shall deem adequate to cover the costs to the town if the applicant fails to make proper restoration. (1997 Code, § 16-204)

16-205. <u>Safety restrictions on excavations</u>. 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. (1997 Code, § 16-205)

16-206. Restoration of streets, etc. Any person, firm, corporation, association, or others making any excavation or tunnel in or under any street, alley, or public place in this town shall restore said street, alley, or public place to its original condition except for the surfacing, which shall be done by the town, but shall be paid for promptly upon completion by such person, firm, corporation, association, or others for which the excavation or tunnel was made. In case of unreasonable delay in restoring the street, alley, or public place, the town recorder shall give notice to the person, firm, corporation, association, or others that unless the excavation or tunnel is refilled properly within a specified reasonable period of time, the town 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 town, 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. (1997 Code, § 16-206)

16-207. Insurance. In addition to making the deposit or giving the bond

hereinbefore required to ensure that proper restoration is made, each person applying for an excavation permit shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the recorder in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall not be less than three hundred thousand dollars (\$300,000.00) for each person, and not less than seven hundred thousand dollars (\$700,000.00) for each accident, and for property damages not less than one hundred thousand dollars (\$100,000.00) for each accident.

- 16-208. <u>Time limits</u>. 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 town if the town 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 town recorder. (1997 Code, § 16-208)
- **16-209.** Supervision. The person designated by the board of mayor and aldermen shall from time to time inspect all excavations and tunnels being made in or under any public street, alley, or other public place in the town 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. (1997 Code, § 16-209)
- **16-210.** <u>Violations and penalty</u>. Any violation of this chapter shall constitute a civil offense and shall be punishable by a civil penalty under the general penalty provision of this code, by revocation of permit, or by both penalty and revocation. Each day a violation shall be allowed to continue shall constitute a separate offense. (1997 Code, § 16-210)

TITLE 17 $\hline \textbf{REFUSE AND TRASH DISPOSAL} \\ \hline \textbf{[RESERVED FOR FUTURE USE]} \\ \hline$

TITLE 18

WATER AND SEWERS¹

CHAPTER

1. SEWAGE AND HUMAN EXCRETA DISPOSAL.

CHAPTER 1

SEWAGE AND HUMAN EXCRETA DISPOSAL²

SECTION

- 18-101. Definitions.
- 18-102. Places required to have sanitary disposal methods.
- 18-103. When a connection to the public sewer is required.
- 18-104. When a septic tank shall be used.
- 18-105. Registration and records of septic tank cleaners, etc.
- 18-106. Use of pit privy or other method of disposal.
- 18-107. Approval and permit required for septic tanks, privies, etc.
- 18-108. Owner to provide disposal facilities.
- 18-109. Occupant to maintain disposal facilities.
- 18-110. Only specified methods of disposal to be used.
- 18-111. Customer billing, payment and collection policy.
- 18-112. Pollution of groundwater prohibited.
- 18-113. Enforcement of chapter.
- 18-114. Carnivals, circuses, etc.
- 18-115. Violations and penalty.
- **18-101. Definitions**. The following definitions shall apply in the interpretation of this chapter:
- (1) "Accessible sewer." A public sanitary sewer located in a street or alley abutting on the property in question or otherwise within two hundred feet (200') of any boundary of said property measured along the shortest available right-of-way.
- (2) "Approved septic tank system." A watertight covered receptacle of monolithic concrete, either precast or cast in place, constructed according to plans approved by the health officer. Such tanks shall have a capacity of not less

²Water and sewer rates, as amended from time to time, are available in the office of the town recorder.

¹Municipal code reference Refuse disposal: title 17.

than seven hundred fifty (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 minimum liquid depth of four feet (4') should be provided with a minimum depth of air space above the liquid of one foot (1'). 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 feet (5'). 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.

- (3) "Health officer." The person duly appointed to such position having jurisdiction, or any person or persons authorized to act as his agent.
- (4) "Human excreta." The bowel and kidney discharges of human beings.
- (5) "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.
- (6) "Sanitary pit privy." A privy having a flytight 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) "Sewage." All water-carried human and household wastes from residences, buildings, or industrial establishments.
- (8) "Watercourse." Any natural or artificial drain which conveys water either continuously or intermittently. (1997 Code, § 18-101)
- 18-102. <u>Places required to have sanitary disposal methods</u>. 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. (1997 Code, § 18-102)

18-103. When a connection to the public sewer is required.

(1) 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 premises accessible to the sewer, no other method of sewage disposal shall be employed.

(2) Requirements for proper wastewater disposal.

- (a) Unsanitary deposit of human or animal excrement, garbage, or other objectionable waste prohibited. No person shall place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the Town of Hornbeak, any human or animal excrement, garbage, or other objectionable waste.
- (b) Unauthorized discharge of sanitary sewer and industrial wastes prohibited. No person shall discharge to any natural outlet within the Town of Hornbeak any sanitary sewer, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with this chapter.
- (c) Use of private sewage disposal prohibited. Except where public sanitary sewer is not available, no person shall construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- (d) Use of public sewers required. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the city and abutting on any street, alley, right-of-way or easement in which there is now located or may in the future be located a public sanitary sewer shall connect to the public sanitary sewer system. The connection to the public sanitary sewer system shall be required at the property owner's expense including all applicable connection and tap fees provided said public sewer is within five hundred feet (500') of the property line or easement on which the principal structure is located.
- (e) Use of septic systems where public sewers are provided. If public sewer is available to properties having functioning septic systems on the date of the adoption of this ordinance (i.e., sewer lines are adjacent to or within five hundred feet (500') of the property line or easement on which the principal structure is located), property owners may elect not to connect to the public sanitary sewer system provided all of the following requirements and conditions are met.
 - (i) The property owner pays the town's monthly sewer availability charge.
 - (ii) When a property owner decided to connect to the public sewer system or a property owner must connect to the public sewer system because the owner's private sewer disposal system no longer complies with the regulation sof the Tennessee Department of Environment and Conservation, the payment of the monthly sewer availability charge will not relieve the property owner from the requirements of payment of all connection and tap fees as applicable prior to obtaining the permit and authorization to commence work for the connection to the public sewer system. (modified)

18-104. 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. (1997 Code, § 18-104)

- 18-105. 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. (1997 Code, § 18-105)
- 18-106. <u>Use of pit privy or other method of disposal</u>. Wherever a sanitary method of human excreta disposal is required under § 18-102, and water-carried sewage facilities are not used, a sanitary pit privy or other approved method of disposal shall be provided. (1997 Code, § 18-106)
- 18-107. 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. (1997 Code, § 18-107)
- **18-108.** 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 § 18-102, or the agent of the owner to provide such facilities. (1997 Code, § 18-108)
- **18-109.** 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. (1997 Code, § 18-109)

- 18-110. Only specified methods of disposal to be used. (1) 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.
 - (2) <u>Private domestic wastewater disposal</u>. (a) Where a public sewer is not available, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.
 - (b) The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations of the Tennessee Department of Environment and Conservation (TDEC). No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
 - (c) A construction permit for a private sewage disposal system by a property owner must be obtained from the TDEC. The application for such permit shall be made on a form furnished by TDEC. The permit for the private sewage disposal system shall not become effective until the installation is complete.
 - (d) No application for a construction permit for a private sewage disposal system shall be submitted to TDEC until the property owner obtains a letter from the town which confirms that the town's public sewer is not available to the property.
 - (e) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter. Any septic tanks, cesspools, and similar private sewage disposal facilities shall be property abandoned and treated in suchy a manner as to cease to be health hazard or filled with suitable material.
 - (f) The owner shall opeate and maintain the private sewage disposal system in a sanitary manner at all times at no expense to the town.
 - (g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by TDEC or the Obion County Health Department. (modified)
- 18-111. <u>Customer billing</u>, <u>payment and collection policy</u>. Sewer bills shall be rendered monthly and shall designate a standard net payment period of not less that fifteen (15) days after the date of the bill. Failure to receive a bill will not release a customer from the payment obligation. When payment is made after the standard net payment period, the customer will pay a ten percent (10%) late payment charge.

Payment must be received in town hall no later than 4:00 P.M. on the due date. If the due date fall on Saturday, Sunday or a holiday, net payment will be accepted, if paid no later than 5:00 P.M. on the next business day.

When the unpaid balance on a customer's account reaches five hundred dollars (\$500.00), the town will notify the customer in writing of the amount of

the delinquent account and will notify the customer that the town has a lien on the customer's property for the amount of the unpaid sewer charges. When the unpaid balance on a customer's account reaches one thousand dollars (\$1,000.00), the town will file an action in court to enforce the payment of the unpaid sewer charges as provided in *Tennessee Code Annotated*, § 7-35-202. (Ord. #2020-03, June 2020)

- 18-112. <u>Pollution of groundwater prohibited</u>. 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 groundwater. (1997 Code, § 18-112)
- 18-113. 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 ensure full compliance with the terms of this chapter. Written notification of any violation shall be given by the health officer to the person or persons responsible for the correction of the condition, and correction shall be made within forty-five (45) days after notification. If the health officer shall advise any person that the method by which human excreta and sewage is being disposed of constitutes an immediate and serious menace to health, such person shall at once take steps to remove the menace. Failure to remove such menace immediately shall be punishable under the general penalty clause for this code. However, such person shall be allowed the number of days herein provided within which to make permanent correction. (1997 Code, § 18-113)
- 18-114. <u>Carnivals, circuses, etc.</u> 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. (1997 Code, § 18-114)
- 18-115. <u>Violations and penalty</u>. 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. (1997 Code, § 18-115)

TITLE 19

ELECTRICITY AND GAS

[RESERVED FOR FUTURE USE]

TITLE 20

MISCELLANEOUS

CHAPTER

1. OPERATION OF HORNBEAK CEMETERY.

CHAPTER 1

OPERATION OF HORNBEAK CEMETERY

SECTION

20-101. Operation of Hornbeak Cemetery.

- **20-101.** Operation of Hornbeak Cemetery. (1) (a) A committee shall consist of the mayor and two (2) members of the presiding board and two (2) members of the community.
- (b) The two (2) members of the board will be appointed by the mayor. The other two (2) members will be appointed by the retiring members or the remaining members in case of death.
- (2) (a) Two (2) funds shall be set up, one (1) will be a trust fund and the other a maintenance fund.
- (b) The trust fund will not be used. The interest or revenue of the trust fund will be transferred to the maintenance fund. The trust fund shall be maintained at Reelfoot Bank in Hornbeak, Tennessee.
- (c) The maintenance fund shall be kept in the Reelfoot Bank of Hornbeak, Tennessee, also. The mayor and one (1) other member of the cemetery committee will sign the checks. Receipts will be given for monies received in both accounts, stating what the money is for and also in honor of whom.
- (3) Monies received from the sale of lots will be deposited in the maintenance account, the monies received back from the funeral homes for dirt removal will be deposited in the maintenance account. As the maintenance account builds the town general fund will be reimbursed for the fifteen thousand dollars (\$15,000.00) that was advanced to purchase the land of the cemetery.
- (4) Lots will be sold at a price determined by the governing body. Once a lot is sold it will not be sold or transferred without the approval of the committee.
- (5) A map will be kept in the Hornbeak Town Hall and with one (1) of the committee members designated as a contact person. Anytime a transaction is made as to plots both maps shall be updated as soon as possible.
- (6) No trees shall be planted on the lots. Flowers will be removed from gravesites two (2) weeks after a burial, with the exception of rock mounts. Flowers may be placed on gravesites on special occasions with the same time limit.

- (7) Any changes to the laws hereby adopted shall not be changed without a public meeting being held and at least two (2) notices in a local newspaper prior to the meeting.
- (8) A copy of this chapter and changes will be kept available for inspection in the Hornbeak Town Hall. A copy will be given to anyone who purchases a lot. (1997 Code, § 20-101)

APPENDIX

A. ZONING ORDINANCE.

APPENDIX A

ZONING ORDINANCE

TOWN OF HORNBEAK, TENNESSEE

(1997 Code, Appendix A)

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ARTICLE 1

TITLE, INTENT AND PURPOSE

1.1 Title

1.1.1 Long Title

An ordinance, in Pursuance of the authority granted by the Sections 13-7-201 through 13-7-210, *Tennessee Code Annotated*, to provide for the establishment of districts within the corporate limits of the Town of Hornbeak, Tennessee: to regulate within such districts the location, height, bulk, number of stories and size of buildings and other structures, the size of open spaces, the density of population, and the uses of land, buildings and other structures, for trade, industry, residence, recreation, public activities and similar purposes; to provide regulations governing nonconforming uses and, structures; to provide for a Board of Appeals and for its

powers and duties; to provide for permits; to establish and provide for the collection of fees; to provide for the administration of this Ordinance and for the official whose duty it shall be to enforce the provisions thereof, to provide penalties for the violation of this Ordinance; and to provide for conflicts with other ordinances or regulations.

1.1.2 Short Title

This Ordinance may be cited as the Zoning Ordinance of Hornbeak, Tennessee. The map portion may be cited separately as the Zoning Map of Hornbeak, Tennessee.

ARTICLE 2

ESTABLISHMENT OF DISTRICTS AND OFFICIAL ZONING MAP

2.1 Establishment of Districts

In order to implement all purposes and provisions of the Ordinance, the lands within the corporate limits of the Town of Hornbeak, Tennessee, are divided into districts designated as follows:

- 2.1.1 R-1 Low Density Residential District
- 2.1.3 C-l General Commercial District
- 2.1.4 I-1 Industrial District

2.2 Provisions for Official Zoning Map

2.2.1 Incorporation of Map

The boundaries of districts established by this Ordinance are shown on the official zoning map which is hereby incorporated into the provisions of this ordinance. The zoning map in its entirety including all amendments shall be as much a part of this ordinance as is fully set forth and described herein.

2.2.2 Identification of the Official Zoning Map

The Official Zoning Map shall be identified by the signature of the Mayor attested by the Town Recorder together with the date of the adopting of the Ordinance.

ARTICLE 3

GENERAL PROVISIONS AND PARKING REQUIREMENTS

3.1 General Provisions

For the purpose of this Ordinance, there shall be certain general provisions which shall apply to the Town as a whole.

3.1.1 Zoning Affects Every Building and Use

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided.

3.1.2 Continuance of Nonconforming Uses and Structures

It is the intent of this Ordinance to recognize that the elimination as expeditiously as is reasonable, of the existing building, structures, or uses that are not in conformity with the provisions of this Ordinance is as much as subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this Ordinance. It is also the intent of this Ordinance to administer the elimination of nonconforming uses, buildings and structures so as to avoid an unreasonable invasion of established private property rights. Lawful nonconforming uses, buildings and structures existing at the time of the passage of this Ordinance or any amendment thereto shall be allowed to remain subject to the following provisions.

- (a) An existing nonconforming use of a building may be changed to a conforming use or to another nonconforming use of the same classification; provided; however, that establishment of another nonconforming use of same classification shall be subject to the written approval of the Board of Zoning Appeals and subject to such conditions as the Board of Zoning Appeals may require in order to protect the area.
- (b) No existing non-conforming use or structure shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except as herein provided.

Non-conforming, commercial, business, and industrial uses created after the passage of Tennessee Acts of 1973, Chapter 279.1 shall be allowed to expand operations and reconstruct facilities which involve an actual continuance and expansion of activities of the business which were permitted and being conducted

prior to the change in zoning, provided that there is a reasonable amount of space for such expansion on the property owned by such business and that any construction, improvements or reconstruction shall be in conformance with the district requirements in which it is located.

- (c) Except as provided in Chapter 279.1 of the 1973 Tennessee Acts.
 - 1. A non-conforming use of land shall be restricted to the area occupied by such at the effective date of this ordinance. A non-conforming use of a building or buildings shall not be enlarged to either additional land or buildings after the effective date of this ordinance.
 - 2. When non-conforming use of any building or land has ceased for a period of six (6) months, it shall not be re-established or changed to any other non-conforming use.
 - 3. Any non-conforming building or non-conforming use, which is damaged by fire, flood, wind or other act of God or man, may be reconstructed and used as before if it is done within twelve (12) months of such damage, unless damaged to the extent of more than sixty (60) percent of its fair sales value immediately prior to damage, in which case any repair or reconstruction shall be in conformity, with the provisions of this Ordinance. However, non-conforming residential structures, including mobile homes, shall be replaced if damaged or destroyed, provided the structure is replaced within twelve (12) months. Replacement mobile homes must meet the latest HUD regulations for both construction and installation.
- (d) A non-conforming building of buildings housing a non-conforming use shall not be structurally altered except in conformance with the provisions of this ordinance. This provision shall not be construed to prevent normal maintenance and repairs or alterations required for structural safety.

3.1.3 Minimum Required Street Frontage

No structure shall be erected on a lot which does not abut at least one public street.

3.1.4 Reduction in Lot Area Prohibited

No lot even though it may consist of one or more adjacent lots of record shall be reduced in area so that yard requirements, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is required for a public purpose.

3.1.5 Lots of Record

Where the owner of a lot of official record at the time of the adoption of this Ordinance does not own sufficient land to enable him to conform to the yard or other requirements of this ordinance, an application may be submitted to the Board of Zoning Appeals for a variance from the terms of this ordinance. Permission to use such lot as a building site may be granted, however, providing that the yards and other requirements of the district are complied with as closely as is possible in the opinion of the Board of Zoning Appeals. Where two or more substandard lots of record with continuous frontage are under the same ownership, such lots shall be combined to form one or more building sites meeting the minimum requirements of the district in which they are located.

3.2 Off-Street Parking

3.2.1. General Provisions

In all districts, when any building or structure is constructed or at the time any main building or structure is enlarged or increased in capacity be additional dwelling units, guest rooms, seats or floor area, or before conversion from one zoning use or occupancy to another, permanent off street parking shall be provided of at least two hundred (200) square feet per space with vehicular access to a street or alley as set forth below. The Town reserves the right to control ingress and egress over private right-of-way. Off-street parking space shall be deemed to be required open space associated with the permitted uses, and shall not hereafter be reduced or encroached upon in any manner.

- (a) Dwelling: Not less than two (2) spaces per dwelling unit.
- (b) Boarding Houses, Rooming Houses: One (1) space per dwelling unit.
- (c) Hotel, Motel and Tourist Courts: One (1) space for each unit in a building.
- (d) Public Buildings: One (1) space for each 200 square feet of total floor area of all floors in the building except basement.
- (e) Office Buildings: One (1) space for each 200 gross square feet of all floors in the building.
- (f) Retail Sales and Services: One (1) space for each 200 gross square feet of floor area.
- (g) Theaters, Auditoriums, Churches or Other Places of Assembly: One (1) space

for each 5 seats provided in such place of assembly.

- (h) Clinic or Medical Office: Five (5) patient parking spaces per doctor, plus two (2) for each three employees plus one (1) per staff doctor.
- (i) Other: For buildings and uses not listed, the off street parking requirement shall be determined by the Board of Zoning Appeals.

3.3 Signs

3.3.1. Signs shall be regulated within the Town of Hornbeak as set forth below.

- (a) Within Residential Districts signs shall be limited to:
 - 1. Real estate signs of a maximum of six (6) square feet.
 - 2. Home occupation signs of a maximum size of four (4) square feet.
 - 3. There shall be no illuminated signs.
- (b) Within Commercial Districts, signs shall be limited to:
 - 1. On-site signs either free standing or attached to the structure. Such signs shall not exceed a size of one square foot for each foot of road frontage.
 - 2. Off-site signs shall be allowed advertising products or establishments not on the affected lot. Such signs shall not exceed 650 sq. ft. nor be higher than 70 feet. (as added by Ord. #2003-01, May 2003)

ARTICLE 4

DEFINITIONS

4.1 Definitions

Except as specifically defined herein all words used in this Ordinance have their customary dictionary definitions where not consistent with the context of the Ordinance. The term "shall" is mandatory. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; the word "building" shall include the word "structure". In case of conflict between Building Code or dictionary definitions with the definitions contained in this ordinance, the definition herein shall prevail.

Accessory building and use: A detached building or use subordinate to the principal building or use on the same lot and serving a purpose naturally and normally incidental to the principal building or use.

Amusement: An establishment which provides: arcade type entertainments including such items as pinball machines, video games and pool tables; miniature golf; or other amusement.

Boarding House or Rooming House: A building in which lodging and/or meals are provided, for compensation for two or more persons for a prearranged time period.

Building: Any structure designed or built for the support, enclosure, shelter or protection or persons, animals, chattels or property.

Cultural Activity: Any institution concerned with the appreciation of nature and the humanities.

Dwelling: Any building or portion thereof which is designed for or used for human residential habitation. For the purpose of this Ordinance, the term "dwelling" shall not include boarding or rooming houses, motels, hotels, or other structures designed for transient residence.

Educational Services: Established schools including primarily secondary, universities, colleges, junior colleges and various private facilities.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal departments, or commissions.

Finance, Insurance and Real Estate Services: Those establishments which provide banking or bank related functions and insurance and real estate brokers.

Governmental Agency: An agency of the Federal, State, or the Local Government or any combination thereof

Institution: A building occupied or operated by a non-profit society, corporation, individual foundation or governmental agency for the purpose of providing charitable, social, educational or similar services of a charitable character to the public.

Lot: A legally recorded parcel of land.

Lot of Record: A parcel legally recorded in the Office of the McNairy County Register of Deeds at the date of the adoption of this ordinance.

Medical Services: Those establishments which provide aid or merchandise relating to or concerned with the practice of medicine; excluding sanitariums,

convalescent and rest home services.

Mobile Home: A detached residential dwelling unit designed for transportation after fabrication on streets on its own wheels or on flatbed or other trailers.

Non-conforming Use: Any use of building or premises which lawfully existed prior to the adoption of, or amendment of this Ordinance, but which no longer complies with the use regulations of the district in which it is located.

Personal Services: Establishments which provide services to persons or households, crematory services and cemeteries.

Principal Building: A building in which is conducted the primary use of the lot on which it is located.

Principal Use: The specific primary purpose for which land or a building is used.

Professional Services: Those services normally provided by the established profession.

Public Assembly Facility: Institutions or installations where community activities are typically performed.

Public Uses: Facilities such as, but not limited to, parks, schools, and offices owned and operated by governmental bodies.

Public Utility: Any plant or equipment for the conveyance of telephone messages or for the production, transmission, delivery of furnishing of heat, chilled air, chilled water, light, power or water, or sewage facilities, either directly or indirectly to of for the public.

Repair Services: Those establishments which fix, mend or overhaul merchandise for households or businesses, not to include automobile body shops.

Retail Trade: Those establishments engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of goods.

Veterinary Hospital or Clinic: Any establishment maintained and operated by a licensed veterinarian for the surgery, diagnosis and treatment of diseases or injuries of animals. Such an establishment may include accessory boarding facilities provided they are located within a building.

Warehouse: A structure used exclusively for the storage of merchandise or

commodities.

Zoning Districts: Any section of the Town for which the zoning regulations, governing the use of buildings and premises, the height of buildings, the size of the yards and the intensity of use are uniform. (as added by Ord. #2003-01, May 2003)

ARTICLE 5

RESIDENTIAL DISTRICT'S PROVISIONS

R-1 Residential District (Low Density)

Within the areas designated R-1 (Low Density) in the Zoning Map of the Town of Hornbeak, Tennessee, the following provisions shall apply:

5.1.1 Uses Permitted

- (a) Single-family dwellings
- (b) Accessory buildings customarily incidental to the permitted use,
- (c) Signs
- (d) Home occupations

5.1.2 Special Exceptions

The following uses are permitted on approval by the Board of Zoning Appeals upon review of the criteria established herein:

- (a) Uses Permitted
 - 1. Public uses, including but not limited to municipal, state or federal uses such as schools, museums, office buildings, utilities.
 - 2. Churches
 - 3. Private or parochial schools
 - 4. Accessory buildings customarily incidental to the permitted use.
 - 5. Duplexes and multi-family dwellings but not single mobile homes.

5.1.3 Minimum Area Requirements

The Principal building shall be located so as to comply with the following requirements:

- (a) Minimum Required Lot Area
 - (1) Single family dwellings 10,000 sq, ft.
- (2) Churches 1 acre or 200 sq. ft. of lot area per auditorium seat, whichever is greater
 - (3) Schools 4 acres plus one (1) acre for each 100 students.
- (4) Duplexes and Multi-family dwellings: 7,000 sq. ft. for the first dwelling unit plus 3,000 sq ft for each additional dwelling unit.
 - (5) Other Uses As required by the Board of Zoning Appeals
- (b) Minimum Required Lot Width at the Building Line.
 - (1) Dwellings 50 feet
 - (2) Churches 200 feet
 - (3) Other Uses As required by the Board of Zoning Appeals.
- (c) Minimum Required Front Yard
 - (1) Dwellings 30 feet
 - (2) Churches 50 feet
- (3) Other Uses 50 feet or more as required by the Board of Zoning Appeals
- (d) Minimum Required Rear Yard
 - (1) Dwellings 30 feet
 - (2) Churches 40 feet
 - (3) Other Uses 25 feet or more as required by the Board of Zoning

Appeals

- (e) Minimum Required Side Yard on Each Side of Lot
 - (1) Dwellings 10 feet
 - (2) Churches 30 feet
- (3) Other Uses 20 feet or more as required by the Board of Zoning Appeals
- (f) Minimum Required Side yard for Side Facing Street on Corner Lots-30 feet
- (g) Maximum Lot Coverage by all Buildings
 - (1) Dwellings and accessory 35%
 - (2) Churches 40%
- (3) Other Uses 50% or less as required by the Board of Zoning Appeals
- (h) Maximum permitted height of structures.
- (1) No building shall exceed three (3) stories or thirty-five (35) feet in height.
- (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 $\frac{1}{2}$) stories or twenty-five (25) feet in height
- (3) No accessory building shall exceed two (2) stories in height. (as added by Ord. #2003-01, May 2003)

ARTICLE 6

COMMERCIAL DISTRICT PROVISIONS

C-1 General Commercial.

The C-1 (General Commercial) District shall be considered a general highway

oriented commercial-service oriented district. Within the areas designed C-1 (General Commercial) on the Zoning Map of the Town of Hornbeak, Tennessee, the following provisions shall apply:

6.1.1 Uses Permitted

- (a) Retail trade
- (b) Wholesale trade
- (c) Services
- (d) Amusements
- (e) Recreational activities
- (f) Transient lodging
 - 1. Hotels
 - 2. Tourists courts
 - Motels
- (g) Group Quarters
- (h) Public uses, including but not limited to municipal, state, or federal uses such as schools, museums, office buildings and utilities.
 - (i) Public Assembly -Limited to motion picture theaters
 - (j) Accessory buildings customarily incidental to the permitted use.
 - (k) Signs and Billboards

6.1.2 Special Exceptions

- (a) Similar but not listed uses are permitted on appeal by the Board of Zoning Appeals.
- (b) Mobile Home Parks are permitted on appeal by the Board of Zoning Appeals.

6.1.3 Minimum Area Requirements

(a) Minimum Required Lot Area None

- (b) Minimum Required Lot Width at the Building Line
 - (1) Gasoline Service Stations 120 feet
 - (2) Churches 100 feet
 - (3) Other Uses No minimum requirement
- (c) Minimum Required Front Yard
 - (1) All Uses 30 feet
- (d) Minimum Required Rear yard
 - (1) All Uses 15 feet
- (e) Minimum Required Side yard on Each Side of Lot
 - (1) Churches 25 feet
- (2) Other Uses None required. However, if buildings do not have common, or adjoining walls, there shall be a side yard of at least 10 feet.
- (3) On lots adjacent to a residential district, all buildings shall be located so as to comply with the side yard requirement of the adjacent residential district on the side adjacent to the residential district.
- (f) Minimum Required Side Yard for Side Facing Street on Corner Lots 30 feet
- (g) Installations essential to the business operation may be required to set back a greater distance from the street or alley so that any service rendered by the business will not obstruct any public way. This determination is to be made by the building inspector.
 - (h) Maximum permitted height of structures.
 - (1) No building shall exceed three (3) stories or thirty-five (35) feet in height.
 - (2) On a lot less than fifty (50) feet in width at the building line no building shall exceed one and one-half (1 $\frac{1}{2}$) stories or twenty-five (25) feet in height. (as added by Ord. #2003-01, May 2003)

ARTICLE 7

INDUSTRIAL DISTRICT PROVISIONS

I-1 General Industrial District

7.1.1 Uses Permitted.

Animal hospitals; bottling works; building materials yard; contractors; yards; dairies; dying and dry cleaning works; electric welding; feed or fuel yards; fruit canning or packing; ice plants; laundries; machine shops; milk distributing stations; optical goods; paper manufacture; printing, publication or engraving concerns; tinsmith shops; trucking terminals; public utilities, including water and sewage treatment plants; warehouses, and any other uses which in the opinion of the Municipal Board of Zoning Appeals are similar in character to those enumerated in this Section and will not be detrimental to the district, subject to such conditions and safeguards as may be required by the Municipal Board of Zoning Appeals. All uses permitted in the Light Industrial Districts are permitted in the General Industrial Districts.

7.1.2 Possible Uses Permissible on Appeal.

Any use not in conflict with any other ordinance of the Town of Hornbeak, Tennessee, provided, however, that the following uses shall be permitted only with the written approval of the Municipal Board of Zoning Appeals auto wrecking, bag cleaning; central mixing plant for cement, mortar, platter, or paving materials; curing, tanning, and storage of raw hides and skins; fat rendering; metal fabrication plants; gasoline or alcohol storage above ground in excess of five hundred (500) gallons; junk, scrap paper, rag storage and baling; slaughter houses or stock yards; manufacture of bleaching powder, chemicals, brick, pottery, terra cotta or tile; manufacture of candles or disinfectants, dyestuffs and fertilizers; manufacture or storage of illuminating of heating gas; manufacture of linseed oil, paint, oil, turpentine, varnish, soap and tar products; raw metal processing; and any other uses which in the opinion of the Municipal Board of Zoning Appeals would not cause injurious or obnoxious noise, vibrations, smoke, gas, fumes, odors, dust, or other objectionable conditions.

7.1.3 Required Yards.

7.1.3(a) All buildings and structures shall be located so as to comply with the following:

Minimum depth of front yard	35 ft.
Minimum depth of rear yard	20 ft.
Minimum width of each side yard	10 ft.

- **7.1.3(b)** On lots adjoining a residential t all buildings shall be located so as to comply with the side yard requirements of such residential district.
- 7.1.4 Parking Space Requirements. To be determined later.
- 7.1.5 Landscape Treatment.
- **7.1.5(a)** Each site shall be developed with ten percent (10%) of its area landscaped. Along the street property line a strip of landscaped ground of a minimum width of 10 feet exclusive of drives and walks shall be provided maintained.
- **7.1.5(b)** Landscape treatment shall not interfere with sight line requirements, nor obstruct needed views of buildings or their means of identification. All landscape should be designed for minimum maintenance; in an area difficult to maintain paving or terracing may be used as a part of the landscape treatment. (as added by Ord. #2003-01, May 2003)

ARTICLE 8

ADMINISTRATION AND ENFORCEMENT

- **8.1 Enforcing Officer.** The provisions of this ordinance shall be enforced by the Mayor or his designee who shall have the power to make inspection of buildings of premises necessary to carry out his duties in the enforcement of this ordinance.
- 8.2 Building Permits and Certificates of Occupancy.
- **8.2.1 Building Permit Required.** It shall be unlawful to commence the excavation for the construction of any building, including accessory buildings, or to commence the moving or alteration of any building, including accessory buildings, until the Mayor or his designee has issued a building permit for such work.
- **8.2.2 Issuance of Building Permit.** In applying to the Mayor for a building permit, the applicant shall submit a dimensional sketch or a scale plan indicating the shape, size, height and location on the lot of all buildings to be erected, altered

or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings and supply such other information for determining whether the provisions of this ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this ordinance and other ordinances of the Town of Hornbeak, Tennessee, then in force, the Mayor or his designee shall issue a building permit for such excavation or construction. If a building permit is refused, the Mayor or his designee shall state such refusal in writing with the cause.

- (a) The issuance of a permit shall in no case be construed as waiving any provision of this ordinance.
- (b) A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by the date on the project described herein.
- **8.2.3 Certificate of Occupancy**. No land or building or part thereof hereafter erected or altered in its use of structure shall be used until the Mayor or his designee shall have issued a certification of occupancy stating that such land, building or part thereof and the proposed use thereof are found to be in conformity with the provisions of this ordinance. Within three (3) days after notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the Mayor or his designee to make final inspection thereof and to issue a certification or occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this ordinance, or, if such certificate is refused, to state such refusal in writing with the cause.
- **8.2.4 Records**. A complete record of such application, sketches, and plans shall be maintained in the office of the Mayor.
- **8.2.5 Permit Fee.** A fee will be charged for issuance of a building permit.
- **8.3 Penalties**. Any person violating any provisions of this ordinance shall be guilty of a misdemeanor and shall be punished as provided by law. Each day such violation shall continue shall constitute a separate offense.
- **8.4 Remedies**. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained or any building, structure, or land is used in the violation of this ordinance, the Mayor or any other appropriate authority, or any adjacent or neighboring property owner who would be damaged by such violation, in addition to other remedies may institute injunction, mandamus, or other appropriate action in proceeding to prevent the occupancy or use of such building, structure or land. (as added by Ord. #2003-01, May 2003)

ARTICLE 9

BOARD OF ZONING APPEALS

9.1 Board of Zoning Appeals Organization. The Board of Zoning Appeals shall consist of three (3) members to be appointed by the Mayor of Hornbeak - and confirmed by a majority vote by the Town Board, all of whom shall serve without pay. The term of office of the said three (3) members shall be of such length and so arranged that the term of one (1) member shall expire each year.

Vacancies shall be filled for any unexpired term by appointment by the Mayor and confirmed by the remainder of the Town Board.

9.2 Procedure for Meetings. Meetings of the Board of Zoning Appeals shall be held at the call of the Chairman, and at such times as the board may determine. All meetings of the Board and action thereon, which shall be a public record. Upon appointment, and annually, the Board of Zoning Appeals shall meet and organize and shall elect its own chairman who shall serve one year or until his successor duly qualifies.

Two (2) members of the board shall constitute a quorum.

The concurring vote of two (2) members of the Board shall be necessary to reverse any order, requirement, decision or determination of such administration official or to decide in favor of the applicant on any matter on which it is required to pass under this Ordinance or to effect any variance in such ordinance. The chief building inspector, Town engineer and planner, when requested to do so by the Chairman of the Board, shall attend such meetings of the Board and shall bring all plans, specifications, plats and papers relating to any case before the Board of Appeals.

9.3 Procedure for Appeals. An appeal to the Board of Zoning Appeals may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board or bureau.

Such appeals may be taken by filing with the Hornbeak Board of Zoning Appeals or their designate a notice of appeals, specifying the grounds thereof.

The Board shall give due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any person or party shall appear in person or by agent or by attorney.

9.4 Powers of Board of Zoning Appeals

9.4.1 To hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by an administrative officials in the enforcement of this Ordinance.

9.4.2 Instances Where an Exception Can be Granted

- (a) Permit the extension of a district for a distance of not more than twenty-five (25) feet where the boundary line of a district divides a lot or tract held in a single ownership at the time of the passage of this Ordinance.
- (b) Interpret the provisions of this Ordinance in such a way as to carry out the intent and purpose of the Land Use Plan.
- (c) Permit special exceptions as provided for within this Ordinance.
- (d) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or a vandal, to the extent of not more than sixty (60) percent of its fair market value, and where the Board finds some compelling necessity requiring a continuance of the non-conforming use.
- **9.4.3. Variance.** To hear and decide applications for variance from the terms of this ordinance, but only where by reason of exceptional narrowness, shallowness or shape of a specific piece of property which at the time of the adoption of the Ordinance was a lot of record; or where, by reason of exceptional topographic conditions or other extraordinary or exceptional situation or conditions of a piece of property the strict application of the provisions of the Ordinance would result in exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without the substantial detriment to the public good and without substantially impairing the intent and purpose of this ordinance. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning.

In considering all appeals and all proposed exceptions or variations to this Ordinance, the Board shall, before making any exceptions or variation from the Ordinance in a specific case, first determine that it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Town of Hornbeak.

9.5 Fees. Appeals to the Board of Zoning Appeals must be accompanied by the appropriate fee which shall be set by the Mayor and Aldermen. Said fee will be used

to defray the cost incurred by the Town in consideration in this matter. (as added by Ord. #2003-01, May 2003)

ARTICLE 10

AMENDMENTS

- **10.1 General.** The Town Board may, from time to time, amend this ordinance by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original zoning ordinance or whenever the public necessity convenience and general welfare require such amendment.
- **10.2 Initiation of Amendment.** Amendments may be initiated by the Town Board, the Planning Commission or by an application of one or more owners or agents of property affected by the proposed amendment.
- **10.3 Application for Amendment Fee.** An application by an individual for an amendment shall be accompanied by a fee as set by the Mayor and Town Board of the Town of Hornbeak, and shall also be accompanied by maps, drawing, and data necessary to demonstrate that the proposed amendment is in general conformance with the general plan of the area.
- **10.4 Review and Recommendation by the Planning Commission.** The Planning Commission shall review and make recommendations to the Town Board on all proposed amendments to this Ordinance.
- **10.5 Public Hearing and Notice of Hearing.** A public hearing shall be held to present this ordinance prior to the Town Board acting on all proposed amendments by final reading by the Town.
- **10.6 Amendments Affecting Zoning Map.** Upon enactment of an amendment to the zoning map which is part of this ordinance, the Building Inspector shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance. (as added by Ord. #2003-01, May 2003)

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ARTICLE 11

LEGAL STATUS PROVISIONS

11.1 Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

11.2 Relationship to Other Laws and Private Restrictions

- 11.2.1 Where the conditions imposed by any provisions of this ordinance upon the use of land or buildings or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this ordinance or of any other law, resolution, ordinance, rule or regulation of any kind, the regulations which are more restrictive shall apply.
- 11.2.2 This ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this ordinance are more restrictive (or impose lighter standards or requirements) than such easements, covenants, or other private agreements, the requirements of this ordinance shall govern.
- 11.3 Ordinance Provisions Do Not Constitute Permit. Nothing contained in this ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation or activity.
- **11.4 Separability.** It is hereby declared to be the intention of the Town of Hornbeak, Tennessee, that the several provisions of this ordinance are separable in accordance with the following:
- **11.4.1** If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be valid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
- **11.4.2** If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provisions to any other property, building or structure not specifically included in said judgment.
- 11.5 Application of Regulation. No building or other structure shall be constructed, erected, placed or maintained and no land use commenced within the Town except as specifically or by necessary, implication, authorized by this

ordinance. Special exception uses are allowed only on permit granted by the Board of Zoning Appeals. Where a lot is devoted to a permitted principal use, customary accessory uses and structure are authorized except as prohibited specifically or by necessary implication.

11.6 Scope of Regulation

- **11.6.1 New Uses, Lots, Buildings or Other Structures.** Upon the effective date of this ordinance, any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk, and all other applicable provisions of this Ordinance.
- 11.6.2 Existing Uses, Lots, Building or Other Structures. Any existing use, lot, parcel, building or structure legally established prior to the effective date of this Ordinance which does not comply with the provisions shall be subject to the nonconforming use provisions of this Ordinance.
- 11.6.3 Alteration of Existing Buildings and Other Structures. All structural alterations or relocation of existing buildings or structures occurring after the effective date of this ordinance and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such buildings, uses, or land shall be located.
- 11.7 Violation and Penalty. Any person, firm or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars (\$50.00). Each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or part thereof, where anything in violation of this ordinance shall be placed, or shall exist, and any person who may have knowingly assisted in the commission of any such violation, shall be guilty of a separate offense.
- 11.8 Effective Date. This Ordinance shall be in force and effect from and after its passage on the second and final reading and adoption, the public welfare requiring it.
- 11.8.1 Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

11.8.2 Approved and certified by Planning Commission

s/Benny McGuire	, Chairperson of the Planning Commission
s/Betty Walley	, Attest: Secretary of the Planning Commission
11.8.3 Approved by the Ma	nyor and Board of Aldermen on final reading
5/13/03	s/Larry Seay
Date	Mayor
Attest: s/Betty Wall	<u>ey</u>
Town Record	ler

ordinance no. 24-03

AN ORDINANCE ADOPTING AND ENACTING A COMPREHENSIVE CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF HORNBEAK, TENNESSEE.

WHEREAS some of the ordinances of the Town of Hornbeak are obsolete, and

WHEREAS some of the other ordinances of the town are inconsistent with each other or are otherwise inadequate, and

WHEREAS the Board of Mayor and Aldermen of the Town of Hornbeak, 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 "Hornbeak Municipal Code," now, therefore:

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF HORNBEAK, TENNESSEE, THAT:

<u>Section 1.</u> <u>Ordinances codified</u>. The ordinances of the Town of Hornbeak 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 "Hornbeak Municipal Code," hereinafter referred to as the "Municipal Code."

<u>Section 2. Ordinances repealed</u>. 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.

<u>Section 3</u>. <u>Ordinances saved from repeal</u>. The repeal provided for in section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the town or

authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing or authorizing the establishment of a social security system or providing or changing coverage under that system; any administrative ordinances or resolutions not in conflict or inconsistent with the provisions of such code; the portion of any ordinance not in conflict with such code which regulates speed, direction of travel, passing, stopping, yielding, standing, or parking on any specifically named public street or way; any right or franchise granted by the town; any ordinance dedicating, naming, establishing, locating, relocating, opening, closing, paving, widening, vacating, etc., any street or public way; any ordinance establishing and prescribing the grade of any street; any ordinance providing for local improvements and special assessments therefor; any ordinance dedicating or accepting any plat or subdivision; any prosecution, suit, or other proceeding pending or any judgment rendered on or prior to the effective date of said code; any zoning ordinance or amendment thereto or amendment to the zoning map; nor shall such repeal affect any ordinance annexing territory to the town.

<u>Section 4.</u> Continuation of existing provisions. Insofar as the provisions of the municipal code are the same as those of ordinances existing and in force on its effective date, said provisions shall be considered to be continuations thereof and not as new enactments.

Section 5. Penalty clause. Unless otherwise specified in a title, chapter or section of the municipal code, including the codes and ordinances adopted by reference, whenever in the municipal code any act is prohibited or is made or declared to be a civil offense, or whenever in the municipal code the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision of the municipal code shall be punished by a civil penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a civil penalty under the provisions of this municipal code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the provisions of the municipal code or other applicable law. In any place in the municipal code the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this municipal code, it shall mean "it shall be a civil

offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this municipal code, it shall mean "a civil penalty."

Each day any violation of the municipal code continues shall constitute a separate civil offense.¹

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances adopted by reference, is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the municipal code shall not affect the validity of any other portion of said code, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 7. Reproduction and amendment of code. The municipal code shall be reproduced in loose-leaf form. The board of mayor and aldermen, by motion or resolution, shall fix, and change from time to time as considered necessary, the prices to be charged for copies of the municipal code and revisions thereto. After adoption of the municipal code, each ordinance affecting the code shall be adopted as amending, adding, or deleting, by numbers, specific chapters or sections of said code. Periodically thereafter all affected pages of the municipal code shall be revised to reflect such amended, added, or deleted material and shall be distributed to town officers and employees having copies of said code and to other persons who have requested and paid for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the numbers of ordinances making the amendments or adding the new provisions, and such references shall be cumulative if a section is amended more than once in order that the current copy of the municipal code will contain references to all ordinances responsible for current provisions. One copy of the municipal code as originally adopted and one copy of each amending ordinance thereafter adopted shall be furnished to the Municipal Technical Advisory Service immediately upon final passage and adoption.

¹State law reference

For authority to allow deferred payment of fines, or payment by installments, see <u>Tennessee Code Annotated</u>, § 40-24-101 <u>et seq</u>.

<u>Section 8.</u> 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.

<u>Section 9.</u> 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.

<u>Section 10.</u> <u>Date of effect</u>. 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 Juy 9, 2024.
Passed 2nd reading August 13, 2024.
Public hearing held on July 9, 2024.
Betty Walley Mayor
Elizabeth France
Recorder

APPROVED AS TO FORM:

Town Attorney