

Change 4, January 10, 2013

CITY OF ROCKFORD, TENNESSEE

MAYOR

Carl Koella, III

VICE MAYOR

Sandra L. Hitson

COMMISSIONER

Jennifer L. Brown

CITY MANAGER/RECORDER

Terry Willett

ATTORNEY

David T. Black

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF COMMISSIONERS.
2. CITY MANAGER.
3. MISCELLANEOUS.
- 4.. CODE OF ETHICS.

¹Charter reference

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.

Zoning: title 14.

CHAPTER 1**BOARD OF COMMISSIONERS**¹**SECTION**

1-101. Time and place of regular meetings.

1-101. Time and place of regular meetings. The City of Rockford Board of Commissioners will hold its regular monthly meetings on the second Thursday of each month. All regular meetings will be held at the City of Rockford City Hall. (Ord. #4-01-03, May 2003)

¹Charter reference

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

Appointment and removal of city judge: § 6-21-501.

Appointment and removal of city manager: § 6-21-101.

Compensation of city attorney: § 6-21-202.

Creation and combination of departments: § 6-21-302.

Subordinate officers and employees: § 6-21-102.

Taxation

Power to levy taxes: § 6-22-108.

Change tax due dates: § 6-22-113.

Power to sue to collect taxes: § 6-22-115.

Removal of mayor and commissioners: § 6-20-220.

CHAPTER 2**CITY MANAGER¹****SECTION**

1-201. City manager to be bonded.

1-201. City manager to be bonded. The city manager shall give bond to the city in the amount of one hundred thousand dollars (\$100,000). (1993 Code, § 1-201)

¹Charter reference

For charter provisions outlining the appointment and removal of the city manager, see Tennessee Code Annotated, title 6, chapter 21, part 1, particularly § 6-21-101.

CHAPTER 3

MISCELLANEOUS

SECTION

1-301. City officials authorized to declare a state of emergency.

1-301. City officials authorized to declare a state of emergency.

The following city officials, in successive order, are the officials authorized to declare a state of emergency for the City of Rockford, Tennessee:

Mayor

Vice-mayor

Commissioner

City manager

(as added by Ord. #011405, Feb. 2005)

CHAPTER 4

CODE OF ETHICS

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 nonvoting 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.

1-401. Applicability. This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. These words "municipal" and "municipality" include these separate entities. (as added by Ord. #081006-1, Sept. 2006)

1-402. Definition of "personal interest." (1) For the purpose 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 the state statutes on conflict of interests; or

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

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

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

(3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter. (as added by Ord. #081006-1, Sept. 2006)

1-403. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects the or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure. (as added by Ord. #081006-1, Sept. 2006)

1-404. Disclosure of personal interest in nonvoting matters. An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter. (as added by Ord. #081006-1, Sept. 2006)

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. (as added by Ord. #081006-1, Sept. 2006)

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

(2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity. (as added by Ord. #081006-1, Sept. 2006)

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

(2) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to any private person or entity, except as authorized by legitimate contract or lease that is determined by the governing body to be in the best interests of the municipality. (as added by Ord. #081006-1, Sept. 2006)

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 are not authorized by the charter, general law, or ordinance or policy of the municipality. (as added by Ord. #081006-1, Sept. 2006)

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. (as added by Ord. #081006-1, Sept. 2006)

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

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

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

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

(3) The interpretation that a reasonable person in the circumstances would apply shall be used 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 provisions rather than a violation of this code of ethics. (as added by Ord. #081006-1, Sept. 2006)

1-411. Violations. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (as added by Ord. #081006-1, Sept. 2006)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

(RESERVED FOR FUTURE USE)

TITLE 3

MUNICIPAL COURT¹

CHAPTER

1. CITY COURT.

CHAPTER 1

CITY COURT

SECTION

- 3-101. Maintenance of docket.
- 3-102. Issuance of arrest warrants.
- 3-103. Issuance of summonses.
- 3-104. Issuance of subpoenas.
- 3-105. Appearance bonds authorized.
- 3-106. Disposition and report of fines, and costs.
- 3-107. Contempt of court.

¹Charter references

For provisions of the charter governing the city judge and city court operations, see Tennessee Code Annotated, title 6, chapter 21, part 5. For specific charter provisions in part 5 related to the following subjects, see the sections indicated:

City judge:

Appointment and term: 6-21-501.

Jurisdiction: 6-21-501.

Qualifications: 6-21-501.

City court operations:

Appeals from judgment: 6-21-508.

Appearance bonds: 6-21-505.

Arrest warrants: 6-21-504.

Docket maintenance: 6-21-503.

Fines and costs:

Amounts: 6-21-502, 6-21-507.

Collection: 6-21-507.

Disposition: 6-21-506.

3-101. Maintenance of docket. The city judge shall keep a complete docket of all matters coming before him in his judicial capacity. The docket shall include for each defendant such information as his name; warrant and/or summons numbers; alleged offense; disposition; fines, penalties, and costs imposed and whether collected; whether committed to workhouse; and all other information which may be relevant. (1971 Code, § 1-602)

3-102. Issuance of arrest warrants.¹ The city judge shall have the power to issue warrants for the arrest of persons charged with violating municipal ordinances. (1971 Code, § 1-603)

3-103. Issuance of summonses.² When a complaint of an alleged ordinance violation is made to the city judge, the judge may in his discretion, in lieu of issuing an arrest warrant, issue a summons ordering the alleged offender to personally appear before the city court at a time specified therein to answer to the charges against him. The summons shall contain a brief description of the offense charged but need not set out verbatim the provisions of the municipal code or ordinance alleged to have been violated. Upon failure of any person to appear before the city court as commanded in a summons lawfully served on him, the cause may be proceeded with ex parte, and the judgment of the court shall be valid and binding subject to the defendant's right of appeal. (1971 Code, § 1-604)

3-104. Issuance of subpoenas. The city judge may subpoena as witnesses all persons whose testimony he believes will be relevant and material to matters coming before his court, and it shall be unlawful for any person lawfully served with such a subpoena to fail or neglect to comply therewith. (1971 Code, § 1-605)

3-105. Appearance bond authorized. (1) Deposit allowed. Whenever any person lawfully possessing a chauffeur's or operator's license theretofore issued to him by the Tennessee Department of Safety, or under the driver licensing

¹State law reference

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

²Municipal code references

Issuance of citation in lieu of arrests and ordinance summonses by certain city officers in non-traffic cases: title 6, chapter 1.

laws of any other state or territory or the District of Columbia, is issued a citation or arrested and charged with the violation of any municipal ordinance regulating traffic, except those ordinances and statutes, the violation of which call for the mandatory revocation of a operator's or chauffeur's license for any period of time, such person shall have the option of depositing his chauffeur's or operator's license with the officer or court demanding bail in lieu of any other security required for his appearance in the city court in answer to such charge before said court.

(2) Receipt to be issued. Whenever any person deposits his chauffeur's or operator's license as provided, either the officer or the court demanding bail as hereinabove described shall issue said person a receipt for said license upon a form approved or provided by the department of safety, and thereafter the person shall be permitted to operate a motor vehicle upon the public highways of this state during the pendency of the case in which the license was deposited.

(3) Failure to appear - disposition of license. In the event that any driver who has deposited his chauffeur's or operator's license in lieu of bail fails to appear in answer to the charges filed against him, the clerk or judge of the city court accepting the license shall forward the same to the Tennessee Department of Safety for disposition by said department in accordance with the provisions of Tennessee Code Annotated, section 55-50-803.

(4) Possession of license required - substitute license. Also pursuant to the provisions of Tennessee Code Annotated sections 55-7-401 through 55-7-405, the licensee shall have his license in his immediate possession at all times when driving a motor vehicle and shall display it upon demand of any officer or agent of the Tennessee Department of Safety or any police officer of the state, county or municipality, except that where the licensee has previously deposited his license with the officer or the court demanding bail, and has received a receipt from the officer or the court, the same to serve as a substitute for the license until the specified date for the court appearance of the licensee or the license is otherwise returned to the licensee by the officer or the court accepting the same for deposit.

(5) Officers and employees shall comply with state law. All city officers and employees shall comply fully with the requirements of sections 55-7-401 through 55-7-405 of Tennessee Code Annotated and any implementing orders of the State of Tennessee Department of Safety. And the provisions of this chapter are in addition to the provisions allowable under Tennessee Code Annotated sections 7-63-101 through 7-63-107 inclusive and are implemented as alternative procedure to the provisions allowable under Tennessee Code Annotated sections 7-63-101 through 7-63-107 inclusive. (Ord. #3, Aug. 1979)

3-106. Disposition and report of fine, and costs. All funds coming into the hands of the city judge in the form of fines, costs, and forfeitures shall be recorded by him and paid over monthly to the municipality. At the end of each month he shall submit to the board of commissioners a report accounting for the collection or non-collection of all fines and costs imposed by his court during the current month and to date for the current fiscal year. (1971 Code, § 1-611)

3-107. Contempt of court. (1) It shall be unlawful and deemed a contempt of the City of Rockford Municipal Court for any person to do or omit to do any of the following:

(a) The willful misbehavior of any person in the presence of the municipal court, or so near thereto as to obstruct the administration of justice.

(b) The willful misbehavior of any of the officers of said municipal court, including police officers in their official transactions.

(c) The willful disobedience or resistance of any officer of the said municipal court, party, witness, or any other person, to any lawful writ, process, order, rule, decree, or command of said court.

(d) The willful abuse of, or unlawful interference with, the process or proceedings of the court.

(e) To profanely swear or curse in the presence of said court.

(2) It shall be unlawful and deemed a contempt of the City of Rockford Municipal Court for any corporation to do or omit to do any of the indicated acts or omissions of "a" through "e" above and such corporation may be punished to the same extent as any person as provided below.

(3) A warrant may be sought as in other cases for the indicated acts and omissions of "a" through "e" above and the person alleged to have committed same may be arrested as in other cases to be tried for such contempt of court and be permitted to make bail which shall be in the amount of fifty dollars (\$50.00).

(4) Any person, or corporation, who shall violate any provision of this chapter shall be guilty of a misdemeanor and be punished by a fine of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00), plus court costs. (Ord. #4, July 1980)

TITLE 4

MUNICIPAL PERSONNEL

CHAPTER

1. PERSONNEL REGULATIONS.
2. WORK, VACATION AND SICK LEAVE, AND HOLIDAY REGULATIONS.
3. TRAVEL REIMBURSEMENT REGULATIONS.
4. SOCIAL SECURITY.

CHAPTER 1

PERSONNEL REGULATIONS¹

SECTION

- 4-101. [Deleted.]
- 4-102. [Deleted.]
- 4-103. Political activity.
- 4-104. [Deleted.]
- 4-105. [Deleted.]
- 4-106. Grievances.
- 4-107. Safety.
- 4-108. Training.
- 4-109. Other information.
- 4-110. Attitude.

4-101. [Deleted.] (1993 Code, § 4-101, as deleted by Ord. #081006-1, Sept. 2006)

4-102. [Deleted.] (1993 Code, § 4-102, as deleted by Ord. #081006-1, Sept. 2006)

4-103. Political activity. Municipal officers and employees shall enjoy the same rights of other citizens of Tennessee to be a candidate for any state or local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities; provided the city is not required to pay the employee's salary for work not performed for the city. Provided, however, municipal employees shall not

¹Municipal code references

Acceptance of gratuities: § 1-405.

Outside employment: § 1-409.

Use of municipal time, facilities, etc.: § 1-407.

Use of position: § 1-408.

be qualified to run for elected office in the board of commissioners. The restriction against running for office in the board of commissioners shall not apply to elective officials. (Ord. #02-01-3, Jan. 2002)

4-104. [Deleted.] (1993 Code, § 4-104, as deleted by Ord. #081006-1, Sept. 2006)

4-105. [Deleted.] (1993 Code, § 4-105, as deleted by Ord. #081006-1, Sept. 2006)

4-106. Grievances. If an employee has a grievance or complaint, it should be discussed with a member of the board of commissioners or the city manager. If a satisfactory agreement cannot be reached, the grievance may be brought before the board of commissioners. (Ord. #02-01-2, Jan. 2002)

4-107. Safety. All employees must be alert for safety hazards. All job related injuries, no matter how small, should be reported to the city manager. (Ord. #02-01-2, Jan. 2002)

4-108. Training. The city wants all employees to be well-trained; every effort will be made to train employees for specific jobs through orientation, safety programs and job improvement training. Requirements that are unique to the position will be disclosed and agreed upon with the individuals prior to employment. (Ord. #02-01-2, Jan. 2002)

4-109. Other information. Uniforms will be purchased or rented by the city when special clothing or equipment is required. All purchased articles remain the property of the city. A city employee will not be allowed to engage in any other employment or activity while on duty. Two weeks notice of intended resignation is required. Employees are expected to be on the job at starting time. City manager should be contacted concerning lateness or absenteeism. (Ord. #02-01-2, Jan. 2002)

4-110. Attitude. As an employee of the City of Rockford, courtesy is expected toward every citizen. Attitude on the job represents the city, whether it is on the telephone, in the city or in the city hall. Personal conduct in employee's private lives as well as at work must be to the credit of the city. (Ord. #02-01-2, Jan. 2002)

CHAPTER 2

WORK, VACATION AND SICK LEAVE AND HOLIDAY REGULATIONS

SECTION

- 4-201. Applicability of chapter.
- 4-202. Probationary period.
- 4-203. Work week.
- 4-204. Overtime.
- 4-205. Insurance/workers compensation.
- 4-206. Retirement plan.
- 4-207. Pay periods.
- 4-208. Position and salary.
- 4-209. Salary increases.
- 4-210. Work attendance.
- 4-211. Holidays.
- 4-212. Vacation leave.
- 4-213. Sick leave.
- 4-214. Absence without leave.
- 4-215. Absence without pay.
- 4-216. Leave without pay.
- 4-217. Other leave of absence.
- 4-218. Equal opportunity.
- 4-219. Sexual harassment policy.

4-201. Applicability of chapter. This chapter shall apply to all full-time municipal officers and employees, except those operating under the jurisdiction of a school, utility or other separate board or commission. (Ord. #02-01-04, Jan. 2002)

4-202. Probationary period. A new employee has probationary status for a period of 6 months, after which job performance is reviewed and evaluated. Depending upon evaluation outcome the employee may be extended in probationary status for up to 6 more months or entered into permanent status. Once entered into permanent status, the employee will be entitled to all benefits of regular city employment. Extension or completion of probationary status would require supervisor recommendation and city manager approval. (Ord. #02-01-04, Jan. 2002)

4-203. Work week. The normal work day shall be 8 hours, and the normal work week shall be 40 hours, being the normal time worked at straight time rates. Nothing herein is a guarantee of work or any number of hours of work, or a limitation on scheduling the work. (Ord. #02-01-04, Jan. 2002)

4-204. Overtime. There will be no overtime pay authorized, supervisors should use flexible scheduling to balance the total number of hours worked. (Ord. #02-01-04, Jan. 2002)

4-205. Insurance/workers compensation. The city has a program of group insurance (includes medical, dental and life (hereafter medical)). Medical for full time employees begins upon effective date of employment and life begins upon completion of probation period. The city will only pay to cover the employee but the employees will have an option to add family/dependant coverage at employee expense. Insurance providers may change but full details about current policy will be available when employment begins. All city employees are covered by the Tennessee Workers Compensation Act which is fully paid for by the city. Workers Compensation Insurance will pay medical and hospital bills resulting from an on-the-job injury, and will pay weekly income if employee is unable to work. (Ord. #02-01-04, Jan. 2002, modified)

4-206. Retirement plan. The city will contribute a specific percentage of employee's salary to an individual retirement account for each employee beginning upon completion of probationary status. Employees may contribute to their own retirement account. Details will be furnished when employee is eligible to participate. (Ord. #02-01-04, Jan. 2002)

4-207. Pay periods. The city recorder may establish pay periods from time to time to ensure that employees are paid on a regular basis. (Ord. #02-01-04, Jan. 2002, as amended by Ord. #02-01-1, Jan. 2002)

4-208. Position and salary. The number of positions and the salary for each will be presented to the board of commissioner for approval as part of the annual budget. Work load and job requirements will be reviewed to insure the proper number of positions and the salary of each is commensurate. (Ord. #02-01-04, Jan. 2002)

4-209. Salary increases. There are two ways that salary increases are earned in a career with the city--merit increases and promotions. There are in addition, cost of living increases which may be given when the economy is rapidly changing and when the city budget will allow such increases. (Ord. #02-01-04, Jan. 2002)

4-210. Work attendance. All full-time employees of the city shall be in attendance at their regular work and at their regular place of work as may be designated by the department head under whose supervision such employees shall work. The head of every city department shall keep a daily attendance record of the employees working under such supervisor and shall report the same to the city manager. (Ord. #02-01-04, Jan. 2002)

4-211. Holidays. (1) Except and in addition to such other holidays as may be from time-to-time declared by the board of commissioners, the following days shall be official holidays for employees of the City of Rockford.

<u>Holiday Name</u>	<u>Holiday Date</u>
New Year's Day	January 1 st of each year
Martin Luther King Day	Third Monday in January
Presidents Day	Third Monday in February
Good Friday	Friday before Easter of each year
Memorial Day	Last Monday in May of each year
Independence Day	July 4 th of each year
Labor Day	First Monday in September of each year
Veteran's Day	Second Friday in November
Thanksgiving Day	Fourth Thursday in November of each year
Friday after Thanksgiving	Fourth Friday in November of each year
Christmas Eve	December 24 th of each year
Christmas Day	December 25 th of each year

(2) When a holiday falls on a Saturday, the preceding Friday shall be observed as the holiday, and when a holiday falls on a Sunday, the following Monday shall be observed as the holiday.

(3) All full-time employees of the city shall be compensated for any holiday granted in this chapter or otherwise designated by the board of commissioners by receiving eight (8) hours off with pay on the date of the holiday. However, in the interest of continuing essential municipal services, any city employee may be required to work on any holiday. Working on any holiday is a condition of employment for all city employees. Employees who are required to work on any holiday shall be given equal time off. Holiday pay may be granted upon recommendation of the supervisor, approval of the city manager and the board of commissioners. If holiday pay is approved, it will be paid on December 15th.

(4) Any employee who is absent without leave on any working day immediately preceding or immediately following any holiday shall not be entitled to be paid for such holiday. (Ord. #02-01-04, Jan. 2002, as amended by Ord. #022505, April 2005)

4-212. Vacation leave. (1) Vacation leave may be taken upon completion of probationary period but will not exceed one week of vacation during the first year of employment. Two weeks may be taken during the

second year thru the ninth year of employment. During the tenth year of employment and each year thereafter three weeks of vacation may be taken. Vacation time will be a use or lose benefit and may not be accumulated into the next year.

<u>Years of Service</u>	<u>Annual Vacation Leave Time</u>
6 months to 1 year	5 working days
1 year to 5 years	10 working days
5 years to 10 years	15 working days
10 years and over	20 working days

For vacation leave purposes the term "working day" as it applies herein shall be computed on an eight (8) hours basis.

(2) The date of service to be used in determining vacation leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.

(3) For vacation purposes, any reinstated employee shall be considered as a new employee regardless of the reason for separation, unless otherwise approved by the board of commissioners.

(4) Any official holiday falling within a period of vacation leave shall be charged as holiday leave rather than vacation leave. (Ord. #02-01-04, Jan. 2002, as amended by Ord. #022505, April 2005)

4-213. Sick leave. (1) All full-time employees of the city shall be allowed to accumulate sick leave with pay at the rate of one (1) working day for each full calendar month of service completed up to an unused maximum of thirty (30) working days. Sick leave shall be considered a benefit and privilege and not a right for the employee to use at his or her discretion. Employees shall, therefore, utilize their accumulated sick leave allowance for absences due to personal illness or physical incapacity, personal illness or physical incapacity within the immediate family of the employee (as defined in paragraph (3) below), enforced quarantine of the employee in accordance with community health regulations, disability resulting from pregnancy, childbirth or related medical conditions, or so as to keep an appointment with a licensed medical doctor, dentist or other recognized health care practitioner.

(2) The board of commissioners may, in its discretion, prescribe regulations requiring that a health care practitioner's certificate or other satisfactory evidence be filed with the city supporting the absence before it may be properly chargeable as sick leave.

(3) For sick leave purposes the term "working day" as it applies in this section shall be computed on an eight (8) hour basis. The term "immediate family" shall be defined as spouse, children, parents, brothers and sisters, and grandparents, both of the employee and spouse of the employee.

(4) Sick leave compensation shall be figured at the employee's straight time pay rate in effect at the date it is used by the employee.

(5) The date of service to be used in determining sick leave time accrual rate is the beginning date of the employee's current period of continuous service or the date on which the employee was initially employed or appointed, whichever is more recent.

(6) Sick leave shall begin to accrue on the first day of the month next following the first full calendar month of employment.

(7) Temporary, casual or part-time employees are not eligible for accrual of sick leave.

(8) For sick leave purposes any reinstated employee shall be considered as a new employee regardless of the reason for his or her separation.

(9) Any employee who abuses these sick leave provisions or who deliberately makes or causes to be made any false or misleading statement or claim concerning the same, shall be subject to the loss of any such benefits, dismissal from his or her employment with the city or other disciplinary action.

(10) Any employee of the city who is injured when engaging in his employment for the city may be carried on sick leave for any accumulated sick leave that he or she has to his or her credit, but in no case shall any employee be allowed to receive sick leave pay while drawing any workers compensation or other disability payments resulting from any benefit provided by the city. (Ord. #02-01-04, Jan. 2002)

4-214. Absence without leave. An absence without leave is an absence from duty which was not authorized or approved and for which either a request for leave was not made by the employee, or when made such request was denied. Under such circumstances any employee may be subject to such disciplinary action, including termination from employment with the city, as the city manager deems necessary or appropriate. (Ord. #02-01-04, Jan. 2002)

4-215. Absence without pay. An absence without pay is an absence which may or may not have been known and which has resulted from suspension, abandonment of position, or leave without pay granted by the city. The heads of all departments shall be responsible for maintaining accurate records of any employee who is absent from duty for any reason and shall promptly report the same to the city manager. (Ord. #02-01-04, Jan. 2002)

4-216. Leave without pay. A regular or part-time employee who is in good standing may be granted a leave without pay for a period not to exceed ninety (90) calendar days in any one calendar year upon the approval of the board of commissioners. (Ord. #02-01-04, Jan. 2002)

4-217. Other leave of absence. Leave with pay may also be granted in the case of jury duty, funeral leave and other emergencies as approved by the board of commissioners. (Ord. #02-01-04, Jan. 2002)

4-218. Equal opportunity. Equal opportunity will be applied in recruitment, hiring, compensation, fringe benefits, staff development and training, promotion, and any other condition of employment, regardless of race, color, religion, gender, handicap, age, or national origin or any other nonperformance factor. (as added by Ord. #022405, April 2005)

4-219. Sexual harassment policy. (1) The sexual harassment of any employee of the City of Rockford by any other employee or non-employee is demeaning to both the victim of the harassment and to the city and is absolutely prohibited. The city will not tolerate the sexual harassment of any of its employees, and will take immediate, positive steps to stop it when it occurs.

(2) Sexual harassment is a violation of title VII of the Civil Rights Act of 1964 and in some cases it has been found to be a violation of the victim's U.S. constitutional rights.

(3) Sexual harassment is unwelcome conduct in the form of physical touching; propositioning; making either explicit or implied job threats or promises in return for submission to sexual favors; making of inappropriate sexual-oriented comments on appearance, including dress or physical features; telling of embarrassing sex-oriented stories; displaying sexually explicit or pornographic material, no matter how it is displayed; or sexual assaults on the job by supervisors, fellow employees, or non-employees, when any of the foregoing unwelcome conduct affects decisions, makes the job environment hostile, distracting or unreasonably interferes with work performance.

(4) This sexual harassment policy applies to all officers and employees of the City of Rockford, including, but not limited to, full- and part-time employees, elected officials, permanent and temporary employees and employees working under contract for the city.

(5) Any employee who believes that he or she is being subjected to sexual harassment should immediately contact one (1) of the persons below with whom the employee feels most comfortable:

- (a) Immediate supervisor;
- (b) Department head;
- (c) City manager;
- (d) City commissioner;
- (e) Mayor.

The city will handle the matter with as much confidentiality as possible, and there will be no retaliation against any employee who makes a claim of sexual harassment or who is a witness to the harassment.

(6) The city will conduct an immediate investigation in an attempt to determine all the facts concerning any alleged harassment. If it is determined that sexual harassment has occurred, corrective disciplinary action will be taken, including a reprimand, demotion, discharge or other appropriate action.

(7) If it is determined that no harassment has occurred, or that there is insufficient evidence of harassment, this will be communicated to the employee who made the complaint, along with the reasons for this determination.

(8) If it is found that a false and malicious claim has been filed, the employee who filed such a claim may thereupon be subject to disciplinary action.
(as added by Ord. #022605, April 2005)

CHAPTER 3

TRAVEL REIMBURSEMENT REGULATIONS

SECTION

- 4-301. Enforcement.
- 4-302. Travel policy.
- 4-303. Travel reimbursement rate schedules.
- 4-304. Administrative procedures.

4-301. Enforcement. The city manager of the city or his or her designee shall be responsible for the enforcement of these regulations. (Ord. #02-01-5, Jan. 2002)

4-302. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized travel" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on city business, unless the person(s) otherwise qualifies as an authorized traveler under this chapter.

(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 city manager. Under certain conditions, entertainment expenses may be eligible for reimbursement.

(3) Authorized travelers can request advance billing directly to the city for registration fees, air fares, meals, lodging, conferences, and similar expenses.

(4) The travel expense reimbursement form will be used to document all expense claims.

(5) 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 city manager may make exceptions for unusual circumstances.

Expenses considered excessive won't be allowed.

(6) Claims of \$5 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.

(7) 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.

(8) Mileage, meals and motel expenses incurred within the city aren't ordinarily considered eligible expenses for reimbursement. (Ord. #02-01-5, Jan. 2002)

4-303. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the federal reimbursement rate for travel. 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. #02-01-5, Jan. 2002, modified)

4-304. 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, in June 1993. A copy of the administrative procedures is on file in the office of the city recorder. (Ord. #02-01-5, Jan. 2002)

CHAPTER 4

SOCIAL SECURITY

SECTION

- 4-401. Policy and purpose as to coverage.
- 4-402. Necessary agreements to be executed.
- 4-403. Withholdings from salaries or wages.
- 4-404. Appropriations for employer's contributions.
- 4-405. Records and reports.
- 4-406. Exemption from coverage.

4-401. Policy and purpose as to coverage. It is hereby declared to be the policy and purpose of the City of Rockford, Tennessee, to extend, as of the date hereinafter set forth, to the employees and officials thereof, not excluded by law or this chapter, and whether employed in connection with a governmental or proprietary function, the benefits of the system of federal old age and survivors insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law 734 - 81st Congress. In pursuance of said policy and for that purpose, the said city shall take such action as may be required by applicable federal or state laws or regulations. (Ord. #1-306, Feb. 1975)

4-402. Necessary agreements to be executed. The mayor of the City of Rockford, Tennessee, is hereby authorized and directed to execute all the necessary agreements and amendments thereto with the director of old age and survivors insurance agency, State of Tennessee, as agent or agency, to secure coverage of employees and officials as provided in § 4-401, hereof. (Ord. #1-306, Feb. 1975)

4-403. Withholdings from salaries or wages. Withholdings from salaries or wages of employees and officials for the purpose provided in § 4-401, hereof, are hereby authorized to be made in the amounts and at such times as may be required by applicable federal or state laws or regulations, and shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #1-306, Feb. 1975)

4-404. Appropriations for employer's contributions. There shall be appropriated from available funds such amounts at such times as may be required by applicable state or federal laws or regulations for employer's contributions; which shall be paid over to the state or federal agency designated by said laws or regulations. (Ord. #1-306, Feb. 1975)

4-405. Records and reports. The said city shall keep such records and make such reports as may be required by applicable state and federal laws or regulations. (Ord. #1-306, Feb. 1975)

4-406. Exemption from coverage. There is hereby excluded from this chapter any authority to make any agreement with respect to any position, or any employee or official now covered or authorized to be covered by any other ordinance creating any retirement system for any employee or official of the said city or any employee, official, or position not authorized to be covered under applicable state or federal laws or regulations. (Ord. #1-306, Feb. 1975)

TITLE 5

MUNICIPAL FINANCE AND TAXATION¹

CHAPTER

1. MISCELLANEOUS.
2. WHOLESALE BEER TAX.

CHAPTER 1

MISCELLANEOUS

SECTION

- 5-101. Official depository for city funds.
- 5-102. Fiscal year of the city.
- 5-103. Purchasing.

5-101. Official depository for city funds. The First Tennessee Bank is hereby designated as the official depository for all city funds.² (1993 Code, § 5-101)

5-102. Fiscal year of the city. The fiscal year of the city shall be from the 1st day of July to the 30th day of June of the year next following. (as added by Ord. #022905, April 2005)

5-103. Purchasing. In accordance with Tennessee Code Annotated, § 6-19-104 the purchase of all material, supplies equipment and services purchased under the authority of this section shall, unless otherwise provided by law, be purchased in accordance with the following regulations:

(1) Purchases not exceeding ten thousand dollars (\$10,000.00). The city manager is authorized to make the following purchases, unless specifically instructed otherwise by a majority of the city commission, whose estimated costs do not exceed ten thousand dollars (\$10,000.00) without formal sealed bids and written specifications: commonly used items of materials, supplies, equipment and services used in the ordinary course of maintaining and repairing the city's real or personal property; building or maintaining stocks of city material,

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

²Charter reference
Tennessee Code Annotated, § 6-22-120 prescribes depositories for city funds.

supplies and equipment used in the ordinary course of the city operations; and minor construction, repair or maintenance services. However a record of all such purchases shall be maintained describing the material, supplies, equipment or services purchased, the person or business from whom it was purchased, the date it was purchased, the purchase cost, and any other information from which the general public can easily determine the full details of the purchase. Each purchase shall be supported by invoices and/or receipts and any other appropriate documentation signed by the person receiving payment.

(2) Purchases in excess of ten thousand dollars (\$10,000.00). The city manager is required to make purchases in excess of ten thousand dollars (\$10,000.00) based on written specifications, awarded by written contract let to the lowest and best responsive and responsible bidder following advertisement for, and submission of, sealed bids.

(3) Exceptions to bidding requirement. The city manager is authorized to make the following purchases whose estimated costs is in excess of ten thousand dollars (\$10,000.00) without written specifications or bids:

(a) Emergency purchases of material, supplies, equipment or services. However, a report of the emergency purchase, including the nature of the emergency, the materials, supplies, equipment or services purchased, and the appropriate documentation similar to that required under the first subsection above shall be filed with the city commission at its next regular meeting.

(b) The purchase of unique, special, or proprietary material, supplies, equipment or services the city manager determines is in the best interest of the city to acquire. However, a report of the purchase, including a full description of the material, supplies. Equipment or services purchased; the reason the same is unique, special or proprietary; the interest of the city served by the purchase; and from whom the purchase will be made shall be filed with the city commission at its regular meeting prior to the purchase.

(c) Purchases of equipment which, by reason of training of city personnel or an inventory of replacement parts maintained by the city, are compatible with the existing equipment owned by the city. However, a full report of the purchase, including a full description of the equipment, an outline of the municipal training or parts inventory factors that made the purchase economically advantageous to the city, and from whom the purchase will be made shall be filed with the city commission at its regular meeting prior purchase.

(d) Purchases that can be made only from a sole source. The minimum geography for determining the "sole source" shall be the municipal limits. However, the city manager shall have the discretion to enlarge the geography of the sole source to whatever extent he/she determines is in the economic interest of the city. A full report of the purchase, including a full description of the purchase, evidence that the

purchase was made legitimately a sole source purchase, and from whom the purchase will be made shall be filed with the city commission at its regular meeting prior to the purchase. (as added by Ord. #12142012, Jan. 2013)

CHAPTER 2

WHOLESALE BEER TAX

SECTION

5-201. To be collected.

5-201. To be collected. The city manager is hereby directed to take appropriate action to assure payment to the city of the wholesale beer tax levied by the "Wholesale Beer Tax Act," as set out in Tennessee Code Annotated, title 57, chapter 6. (as added by Ord. #022905, April 2005)

TITLE 6

LAW ENFORCEMENT

CHAPTER

1. POLICE AND ARREST.

CHAPTER 1

POLICE AND ARREST¹

SECTION

6-101. Police chief.

6-102. Members of division of police.

6-103. Powers and duties of police.

6-104. Qualifications of police.

6-105. Arrests.

6-106. Police records.

6-101. Police chief. The police chief will be designated and employed as directed by the board of commissioners. (1971 Code, § 1-402, modified)

6-102. Members of division of police. The division of police shall be composed of the police chief and such number of subordinate members as he shall appoint. All policemen shall wear such uniform and badge as the police chief shall authorize and shall carry appropriate identification as city police. (1971 Code, § 1-410)

6-103. Powers and duties of police. In elaboration of or in addition to powers and duties of police provided by the charter and other applicable law, police shall preserve law and order within the city and shall otherwise assist in the affairs of the city as follows:

(1) Police shall patrol the city as necessary to enforce all city ordinances;

¹Municipal code reference

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

(2) Police shall respond to calls and requests of the public and of the city board, city manager, department heads, division chiefs, and any officer designated as enforcing officer of the provisions of this code;

(3) Police shall assist the city court during the trial of cases and shall promptly serve any legal process issued by the city court.

In the execution of his duties, any policeman may request and require any person to assist in making a lawful arrest when such assistance is reasonably necessary to effect the arrest. (1971 Code, § 1-411)

6-104. Qualifications of police. Any person employed as a police officer shall meet the qualifications enacted as Section 3, Chapter 575 Public Acts, 1970, which section is incorporated herein by reference. (1971 Code, § 1-412)

6-105. Arrests. Unless otherwise authorized or directed in this code or other applicable law, an arrest of the person shall be made by a policeman in the following cases:

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

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

(3) Whenever a felony has in fact been committed and the policeman has reasonable cause to believe the person has committed it. (1971 Code, § 1-413, modified)

6-106. Police records. The division of police shall keep a comprehensive and detailed daily record in permanent form, showing:

(1) All known or reported offenses committed within the city;

(2) All arrest made;

(3) All police investigations made, funerals convoyed, fire calls answered, and other miscellaneous activities. (1971 Code, § 1-414)

TITLE 7

FIRE PROTECTION AND FIREWORKS

CHAPTER

1. FIRE DEPARTMENT.

CHAPTER 1

FIRE DEPARTMENT¹

SECTION

7-101. Fire code adopted.

7-102. Modifications.

7-103. Fire services provided.

7-101. Fire code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, the International Fire Prevention Code,² 2006 edition, as recommended by the International Code Council is hereby adopted by reference and included as a part of this code. Any matters in the said fire prevention code which are contrary to existing ordinances of the City of Rockford, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. Pursuant to the requirement of Tennessee Code

¹Charter references

For detailed charter provisions governing the operation of the fire department, see Tennessee Code Annotated, title 6, chapter 21, part 7. For specific provisions in part 7 related to the following subjects, see the sections indicated.

Fire chief

Appointment: § 6-21-701.

Duties: § 6-21-702.

Emergency: § 6-21-703.

Fire marshal: § 6-21-704

Firemen

Appointment: § 6-21-701.

Emergency powers: § 6-21-703.

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

Annotated, § 6-54-502, one (1) copy of the fire prevention codes has been filed with the city recorder and is available for public use and inspection. Said fire prevention code is adopted and incorporated as fully as if set out at length herein and shall be controlling within the corporate limits. (Ord. #03-01-03, April 2003, as amended by Ord. #090910, Sept. 2010)

7-102. Modifications. Within said fire prevention code, when reference is made to the duties of a certain official named therein, that designated official of the City of Rockford, Tennessee who has duties corresponding to those of the named official in said fire prevention code shall be deemed to be the responsible official insofar as enforcing the provisions of said fire prevention code are concerned. (Ord. #03-01-03, April 2003)

7-103. Fire services provided. Fire services are provided pursuant to contract with Blount County.¹ (1993 Code, § 7-101)

¹The contract is of record in the office of the city recorder.

TITLE 8

ALCOHOLIC BEVERAGES¹

CHAPTER

1. INTOXICATING LIQUORS.
2. BEER.

CHAPTER 1

INTOXICATING LIQUORS

SECTION

8-101. Prohibited generally.

8-101. Prohibited generally. Except as authorized by applicable laws² 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 city. "Intoxicating liquor" shall be defined to include whiskey, wine, "home brew," "moonshine," and all other intoxicating, spirituous, vinous, or malt liquors and beers which contain more than five percent (5%) of alcohol by weight. (Ord. #91-1, June 1991)

¹State law reference
Tennessee Code Annotated, title 57.

²State law reference
Tennessee Code Annotated, title 39, chapter 17.

CHAPTER 2

BEER¹

SECTION

- 8-201. Beer board established.
- 8-202. Meetings of the beer board.
- 8-203. Record of beer board proceedings to be kept.
- 8-204. Requirements for beer board quorum and action.
- 8-205. Powers and duties of the beer board.
- 8-206. "Beer" defined.
- 8-207. Permit required for engaging in beer business.
- 8-208. Beer permits shall be restrictive.
- 8-209. Classes of consumption permits.
- 8-210. Limitation on number of permits.
- 8-211. Interference with public health, safety, and morals prohibited.
- 8-212. Issuance of permits to persons convicted of certain crimes prohibited.
- 8-213. Prohibited conduct or activities by beer permit holders.
- 8-214. Suspension and revocation of beer permits.
- 8-215. Privilege tax.
- 8-216. Civil penalty in lieu of suspension.

8-201. Beer board established. There is hereby established a beer board to be composed of the board of commissioners. The mayor shall be the chairman of the beer board. (Ord. #91-1, June 1991)

8-202. Meetings of the beer board. All meetings of the beer board shall be open to the public. The board shall hold regular meetings in the city hall at such times as it shall prescribe. When there is business to come before the beer board, a special meeting may be called by the chairman, provided he gives a reasonable notice thereof is given to each member. The board may adjourn a meeting at any time to another time and place. (Ord. #91-1, June 1991)

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

¹State law reference

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

shall be a public record and shall contain at least the following: The date of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, before the board; a copy of each such motion or resolution presented; the vote of each meeting; the names of the board members present and absent; the names of the members introducing and seconding motions and resolutions, before the board; a copy of such motion or resolution presented; the vote of each member thereon; and the provisions of each beer permit issued by the board. (Ord. #91-1, June 1991)

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. #91-1, June 1991)

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 city in accordance with the provisions of this chapter. (Ord. #91-1, June 1991)

8-206. "Beer" defined. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors having an alcoholic content of not more than five percent (5%) by weight. (Ord. #91-1, June 1991)

8-207. Permit required for engaging in beer business. It shall be unlawful for any person to sell, store for sale, distribute for sale, or manufacture beer without first making application to and obtaining a permit from the beer board. The application shall be made on such form as the board shall prescribe and/or furnish, and pursuant to T.C.A. 57-5-101(b), and shall be accompanied by a non-refundable application fee of two hundred and fifty dollars (\$250.00).¹ Said fee shall be payable to the City of Rockford. Each applicant must be a person of good moral character and certify he has read and is familiar with the provisions of this chapter. (Ord. #91-1, June 1991, as replaced by ord. No. 93-3)

¹State law reference

Tennessee Code Annotated, section 57-5-104(a).

8-208. 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. It shall be unlawful for any beer permit holder to engage in any type or phase of the beer business not expressly authorized by the permit. It shall likewise be unlawful for the permit holder to not comply with any and all express restrictions or conditions which may be written into his permit by the beer board. (Ord. #91-1, June 1991)

8-209. Classes of consumption permits. Permits issued by the beer board shall consist of three classes:

(1) Class 1 On Premises Permit. A Class 1 On Premises Permit shall be issued for the consumption of beer only on the premises. To qualify for a Class 1 On Premises permit, an establishment must, in addition to meeting the other regulations and restrictions in this chapter:

- (a) be primarily a restaurant or an eating place; and
- (b) be able to seat a minimum of thirty people, including children, in booths and at tables, in addition to any other seating it may have; and
- (c) have all seating in the interior of the building under a permanent roof; and
- (d) have been in continual operation for a period of six (6) months at the location for which the permit is requested.

In addition, the monthly beer sales of any establishment which holds a Class 1 On premises Permit shall not exceed fifty percent (50%) of the gross sales of the establishment. Any such establishment which for two consecutive months or for any three months in any calendar year has beer sales exceeding fifty percent (50%) of its gross sales, shall have its beer permit revoked.

(2) Class 2 Off Premises Permit. An off premises permit shall be issued for the consumption of beer only off the premises. To qualify for an off premises permit, an establishment must, in addition to meeting the other regulations and in this chapter:

- (a) be a grocery store or a convenience type market; and
- (b) in either case, be primarily engaged in the sale of grocery and personal and home care and cleaning articles, but may also sell gasoline; and
- (c) have been in continuous operation for a period of six (6) months at the location for which the permit is requested.

In addition, the monthly beer sales of any establishment which holds an off premises permit shall not exceed twenty-five percent (25%) of the gross sales of the establishment. Any establishment which for two consecutive months or

for three months in any calendar year has beer sales exceeding twenty-five percent (25%) of its gross sales, shall have its beer permit revoked. (Ord. #91-1, June 1991, as amended by Ord. #92-3, ____)

8-210. Limitation on number of permits. There shall be no limit on the number of Class 1 On Premises Permits and Class 2 Off Premises Permits. (Ord. #91-1, June 1991, as amended by Ord. #92-3, ____)

8-211. Interference with public health, safety, and morals prohibited. No permit authorizing the sale of beer will be issued when such business would cause congestion of traffic or would interfere with hospitals, schools, churches, or would otherwise interfere with the public health, safety, and morals. In no event will a permit be issued authorizing the manufacture or storage of beer by Class 1 On Premises Permit holders or Class 2 Off Premises Permit holders within two hundred fifty (250) feet of any hospital, school, church. The distances shall be measured in a straight line from the nearest corner of the building from which the beer will be sold, to the nearest corner of the church, hospital or school building. (Ord. #91-1, June 1991, as amended by Ord. #92-3, ____)

8-212. Issuance of permits to persons convicted of certain crimes prohibited. No beer permit shall be issued to any person who has been convicted for the possession, sale, manufacture, or transportation of intoxicating liquor or drug, or any crime involving moral turpitude within the past ten (10) years. (Ord. #91-1, June 1991)

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

- (1) Employ any person convicted for the possession, sale, manufacture, or transportation of intoxicating liquor, or any crime involving moral turpitude within the past ten (10) years.
- (2) Make or allow any sale of beer between the hours of 12:00 Midnight and 6:00 A.M. during any night of the week.
- (3) Allow any loud, unusual, or obnoxious noises to emanate from his premises.
- (4) Make or allow any sale of beer to a person under twenty-one (21) years of age.
- (5) Allow any person under twenty-one (21) years of age to loiter in or about his place of business.
- (6) Make or allow any sale of beer to any intoxicated person or to any feeble-minded, insane, or otherwise mentally incapacitated person.
- (7) Allow drunk persons to loiter about his premises.

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

(9) Allow gambling on his premises.

(10) Allow dancing on his premises.

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

(12) For Class 1 On Premises permit holders to fail to provide and maintain separate sanitary toilet facilities for men and women.

(13) It shall be unlawful for any permit holder to employ any person under the age of eighteen (18) on the premises in any capacity directly related to the selling or serving of beer. (Ord. #91-1, June 1991, as amended by Ord. #92-3, ____; and further amended by Ord. #96-9, § 1, Jan. 1997)

8-214. Suspension and revocation of beer permits. The beer board shall have the power to suspend or revoke 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 suspended or revoked until a public hearing is held by the board after reasonable notice to all the known parties in interest. Suspension or revocation proceedings may be initiated by the police chief or by any member of the beer board. (Ord. #91-1, June 1991)

8-215. Privilege tax. There is hereby imposed on the business of selling, distributing, storing or manufacturing beer an annual 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 on January 1, 1994, and each successive January 1, to the City of Rockford, 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. (as added by ord. No. 93-3)

8-216. Civil penalty in lieu of suspension. The beer board may, at the time it imposes a revocation or suspension, offer a permit holder the alternative of paying a civil penalty not to exceed \$1500.00 for each offense of making or permitting to be made any sales to minors or, a civil penalty not to exceed \$1000.00 for any other offense. If a civil penalty is offered as an alternative to revocation or suspension, the holder shall have seven (7) days within which to pay the civil penalty before the revocation or suspension shall be imposed. If the

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civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (as added by ord. No. 93-3)

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.

CHAPTER

1. PEDDLERS, SOLICITORS, ETC.
2. ADULT-ORIENTED ESTABLISHMENTS.
3. MASSAGE PARLORS MASSAGE TECHNICIANS AND OTHER MASSAGE PARLOR EMPLOYEES.

CHAPTER 1

PEDDLERS, SOLICITORS, ETC.¹

SECTION

- 9-101. Definitions.
- 9-102. Exemptions.
- 9-103. Permit required.
- 9-104. Permit procedure.
- 9-105. Restrictions on peddlers, street barkers 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. Violation 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 city, who has no permanent regular place of business and who goes from dwelling to dwelling, business to business, place to place, or from street to street, carrying or transporting goods, wares or merchandise and offering or exposing the same for sale.

(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

¹Municipal code references

Privilege taxes: title 5.

Trespass by peddlers, etc.: § 11-501.

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 city or from door to door, business to business, place to place, or from street to street, for any charitable or religious organization, and who does not sell or offer to sell any single item at a cost to the purchaser in excess of ten dollars (\$10.00). 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 _____ 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 city, or from door to door, business to business, place to place, or from street to street, and who offers for sale subscriptions to magazines or other materials protected by provisions of the Constitution of the United States.

(5) "Transient vendor"¹ means any person who brings into temporary premises and exhibits stocks of merchandise to the public for the purpose of selling or offering to sell the merchandise to the public. Transient vendor does not include any person selling goods by sample, brochure, or sales catalog for future delivery; or to sales resulting from the prior invitation to the seller by the owner or occupant of a residence. For purposes of this definition, "merchandise" means any consumer item that is or is represented to be new or not previously owned by a consumer, and "temporary premises" means any public or quasi-

¹State law references

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

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

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.

(6) "Street barker" means any peddler who does business during recognized festival or parade days in the city and who limits his business to selling or offering to sell novelty items and similar goods in the area of the festival or parade. (1993 Code, § 9-101, as replaced by Ord. #030104, May 2004)

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, nor to persons selling agricultural products, who, in fact, themselves produced the products being sold. (as added by Ord. #030104, May 2004)

9-103. Permit required. No person, firm or corporation shall operate a business as a peddler, transient vendor, solicitor or street barker, and no solicitor for charitable or religious purposes or solicitor for subscriptions shall solicit within the city unless the same has obtained a permit from the city in accordance with the provisions of this chapter. (as added by Ord. #030104, May 2004)

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

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

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

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

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

(4) Submission of application form to chief of police. Immediately after the applicant obtains a permit from the city recorder, the city recorder shall submit to the chief of police a copy of the application form and the permit. (as added by Ord. #030104, May 2004)

9-105. Restrictions on peddlers, street barkers and solicitors. No peddler, street barker, 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 city.

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

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

(4) Call attention to his business or merchandise or to his solicitation efforts by crying out, by blowing a horn, by ringing a bell, or creating other noise, except that the street barker shall be allowed to cry out to call attention to his business or merchandise during recognized parade or festival days of the city.

(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. (as added by Ord. #030104, May 2004)

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. (as added by Ord. #030104, May 2004)

9-107. Display of permit. Each peddler, street barker, 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. (as added by Ord. #030104, May 2004)

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 city recorder for any of the following causes:

- (a) Any false statement, material omission, or untrue or misleading information which is contained in or left out of the application; or
- (b) Any violation of this chapter.

(2) Suspension or revocation by the board of commissioners. The permit issued to any person or organization under this chapter may be suspended or revoked by the board of commissioners, 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 city 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. (as added by Ord. #030104, May 2004)

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 street barkers shall be for a period corresponding to the dates of the recognized parade or festival days of the city. 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. (as added by Ord. #030104, May 2004)

9-110. Violation and penalty. In addition to any other action the city 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. (as added by Ord. #030104, May 2004)

CHAPTER 2

ADULT-ORIENTED ESTABLISHMENTS

SECTION

- 9-201. Definitions.
- 9-202. License required.
- 9-203. Application for license.
- 9-204. Standards for issuance of license.
- 9-205. Permit required.
- 9-206. Application for permit.
- 9-207. Standards for issuance of permit.
- 9-208. Fees.
- 9-209. Display of license or permit.
- 9-210. Revocation of license or permit.
- 9-211. Hours of operation.
- 9-212. Responsibilities of the operator.
- 9-213. Prohibitions and unlawful sexual acts.
- 9-214. Location restrictions.
- 9-215. Penalties and prosecution.
- 9-216. Invalidity of part.
- 9-217. Investigation of premises prior to issuance of license or permit.
- 9-218. Right of entry.
- 9-219. et seq. Reserved.

9-201. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

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

(2) "Adult bookstore" means an establishment receiving at least 20% of its gross sales from the sale or rental of books, magazines, periodicals, video tapes, DVD's, films and other electronic media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. "Adult bookstore" shall not include video stores whose primary business is the rental and sale of videos which are not distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

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

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

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

(6) "City commission" means the Mayor and City Commissioners of the City of Rockford, Tennessee.

(7) "Employee" means any and all person, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

(8) "Entertainer" means any person who provides entertainment within an adult-oriented establishment as defined in this section, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

(9) "Adult-entertainment" means any exhibition of any adult-oriented: motion pictures, live performance, computer or CD Rom generated images, displays of adult-oriented images or performances derived or taken from the Internet, displays or dance of any type, which has a significant or substantial

portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal or partial removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal service offered customers.

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

(11) "Specified sexual activities" means:

(a) Human genitals in a state of actual or simulated sexual stimulation or arousal;

(b) Acts or simulated acts of human masturbation, sexual intercourse or sodomy;

(c) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(12) "Specified anatomical areas" means:

(a) Less than completely and opaquely covered:

(i) Human genitals, pubic region;

(ii) Buttocks;

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

(b) Human male genitals in an actual or simulated discernibly turgid state, even if completely opaquely covered. (as added by Ord. #120904, Jan. 2005)

9-202. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no adult-oriented establishment shall be operated or maintained in the City of Rockford without first obtaining a license to operate issued by the City of Rockford.

(2) A license may be issued only for one (1) adult-oriented establishment located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) adult-oriented establishment must have a license for them.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any entertainer, employee or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed adult-oriented establishment.

(5) All existing adult-oriented establishments at the time of the passage of this article must submit an application for a license within sixty (60) days of the passage of this chapter on the second and final reading. If a license is not issued within said sixty day period, then such existing adult-oriented establishment shall cease operations.

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

the zoning ordinance, building codes, electrical and plumbing codes, fire codes, and health codes are complied with. (as added by Ord. #120904, Jan. 2005)

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

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

- (a) Name and addresses, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past five (5) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under an adult-oriented establishment license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant.
- (i) The address of the adult-oriented establishment to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such adult-oriented establishment is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.

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

(l) The length of time each applicant has been a resident of the City of Rockford, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said establishment, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address, phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed adult-oriented establishment complies with all requirements of the zoning ordinances as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the City of Rockford, the city recorder shall notify the applicant that his/her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the city recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter, before the city commission, at which time the applicant may present evidence as to why his/her license should not be denied. The city commission shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for an adult-oriented establishment license is denied by the city commission and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Blount County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate

judicial determination of whether such license or permit may be properly denied under the law.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such license and shall be grounds for denial thereof by the city recorder. (as added by Ord. #120904, Jan. 2005)

9-204. Standards for issuance of license. (1) To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-502 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-502 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the City of Rockford has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city recorder no later than twenty (20) days after the date of the application. (as added by Ord. #120904, Jan. 2005)

9-205. Permit required. In addition to the license requirements previously set forth for owners and operators of "adult-oriented establishments," no person shall be an employee or entertainer in an adult-oriented establishment without first obtaining a valid permit issued by the city recorder. (as added by Ord. #120904, Jan. 2005)

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

(2) The application for a permit shall be upon a form provided by the city recorder. An applicant for a permit shall furnish the following information under oath

(a) Name and address, including all aliases.

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

(c) All residential addresses of the applicant for the past five (5) years.

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

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

(f) Whether the applicant, while previously operating in this or any other city or state under an adult-oriented establishment permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason therefore, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.

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

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

(i) The length of time the applicant has been a resident of the City of Rockford, or its environs, immediately preceding the date of the application.

(j) A statement by the applicant that he or she is familiar with the provisions of this chapter and is in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the City of Rockford, the city recorder shall notify the applicant that his or her applicant is granted, denied, or held for further investigation. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the city recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter, before the city commission, at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he or she is ineligible for such permit and shall be grounds for denial thereof by the city recorder. (as added by Ord. #120904, Jan. 2005)

9-207. Standards for issuance of permit. (1) To receive a permit as an employee or entertainer, an applicant must meet the following standards:

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

(b) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature (including violation of similar adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

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

(2) No permit shall be issued until the City of Rockford has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city recorder not later than twenty (20) days after the date of the application. (as added by Ord. #120904, Jan. 2005)

9-208. Fees. (1) A non-refundable license fee of ten dollars (\$10.00) shall be submitted with the application for a license.

(2) A non-refundable permit fee of ten dollars (\$10.00) shall be submitted with the application for a permit.

(3) A non-refundable investigation fee shall be submitted with any application for a license and/or permit. (as added by Ord. #120904, Jan. 2005)

9-209. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the adult-oriented establishment so that it may be readily seen upon entrance to the premises.

(2) The permit shall be carried by an employee and/or entertainer upon his or her person and shall be displayed upon request of a customer, the Blount County Sheriff's Department, or any other person designated duly authorized by the City of Rockford. (as added by Ord. #120904, Jan. 2005)

9-210. Revocation of license or permit. (1) The city recorder shall revoke a license or permit for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The operator, entertainer, or any employee of the operator, violates any provision of this chapter or any rule or regulation adopted by the city commissioner pursuant to this chapter; provided, however, that in the case of a first offense by an operator where the conduct was solely that of an employee, the penalty shall not exceed a suspension of one hundred and twenty (120) days if the city recorder shall find that the operator had no actual or constructive knowledge of such violation and could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The operator, entertainer, or employee becomes ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An operator employs an entertainer or employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as an entertainer without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any operator, employee or entertainer sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any adult-oriented entertainment or adult-oriented material.

(h) Any operator, employee or entertainer denies access of law enforcement personnel to any portion of the licensed premises wherein adult-oriented entertainment is permitted or to any portion of the

licensed premises wherein adult-oriented material is displayed or sold.

(i) Any operator allows continuing violations of the rules and regulations of the Blount County Health Department.

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

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

(2) The city recorder, before revoking or suspending any license or permit, shall give the operator entertainer, or employee at least ten (10) days' written notice of the charges against him or her and the opportunity to a public hearing before the city commission, at which time the operator entertainer, or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

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

(4) Any operator entertainer, or employee whose license or permit is revoked shall not be eligible to receive a license or permit for ten (10) years from the date of revocation. No location or premises for which a license has been issued shall be used as an adult-oriented establishment for ten (10) years from the date of revocation of the license. (as added by Ord. #120904, Jan. 2005)

9-211. Hours of operation. No adult-oriented establishment shall be open between the hours of 1:00 A.M. and 8:00 A.M. Mondays through Saturdays, and between the hours of 1:00 A.M. and 12:00 P.M. on Sundays. (as added by Ord. #120904, Jan. 2005)

9-212. Responsibilities of the operator. (1) The operator shall maintain a register of all employees and/or entertainers showing the names, and aliases used by the employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and termination, and duties of each employee and such other information as may be required by the city commission. The above information on each employee shall be maintained in the register on the premises for a period of five (5) years following termination.

(2) The operator shall make the register of the employees available immediately for inspection by the Blount County Sheriff or the City of Rockford upon demand at all hours of operation and any other reasonable times.

(3) Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to

supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

(4) An operator shall be responsible for the conduct of all employees and/or entertainers while on the licensed premises and any act or omission of any employee and/or entertainer constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each adult-oriented establishment a list of any and all entertainment provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each entertainment listed. Viewing adult-oriented motion pictures shall be considered as entertainment. The operator shall make the list available immediately upon demand of the Blount County Sheriff or the City of Rockford at all hours of operation and any other reasonable times.

(6) No employee of an adult-oriented establishment shall allow any minor to loiter around or to frequent an adult-oriented establishment or to allow any minor to view adult entertainment as defined herein.

(7) Every adult-oriented establishment shall be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein adult entertainment is provided, shall be visible from the common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other obstruction whatsoever. It shall be unlawful to install booths, cubicles, rooms or stalls within adult-oriented establishments for whatever purpose, but especially for the purpose of secluded viewing of adult-oriented motion pictures of other types of adult entertainment.

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

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

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

This Adult-Oriented Establishment is regulated by the City of Rockford Municipal Ordinance. Entertainers are:

1. Not permitted to engage in any type of sexual contact and/or conduct;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for entertainment before its completion.

(as added by Ord. #120904, Jan. 2005)

9-213. Prohibitions and unlawful sexual acts. (1) No operator, entertainer, or employee of an adult-oriented establishment shall permit to be performed, offer to perform, or allow customers, employees or entertainers to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

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

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

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

(5) No entertainer, employee or customer shall be permitted to have any physical contact with any other on the premises during any performance and all performances shall only occur upon a stage at least twenty (20") inches above the immediate floor level and removed ten feet (10') from the nearest entertainer, employee and/or customer. (as added by Ord. #120904, Jan. 2005)

9-214. Location restriction. (1) Adult-oriented business will be allowed only in a Heavy Industrial Zoning District (M-2).

(2) No adult-oriented business may be located within two thousand (2000) feet of any other adult-oriented business and/or any massage parlor. (as added by Ord. #120904, Jan. 2005)

9-215. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity that is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #120904, Jan. 2005)

9-216. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (as added by Ord. #120904, Jan. 2005)

9-217. Investigation of premises prior to issuance of license or permit.

The city recorder, before authorizing the issuing and adult-oriented business license shall cause an investigation be made of the premises named and described in the application for a adult-oriented business license under this section of this chapter for the purpose of determining whether the adult-oriented business complies with the provisions of this chapter, the zoning ordinances, all building, fire, plumbing and electrical codes, and health codes, and for this purpose, a copy of the application shall immediately be referred to the building official(s) and health official(s) to make or cause to be made a thorough investigation of the premises and the result of this investigation and whether such premises comply with the zoning, building, fire, plumbing and electrical codes, and health codes shall be submitted to the city recorder within thirty (30) days of the request. (as added by Ord. #120904, Jan. 2005)

9-218. Right of entry. An officer of the Blount County Sheriff, city manager, and city recorder, building official, county health official, fire department official, or similar person or agency charged with the responsibility for the enforcement of particular health and safety ordinances or laws o the City of Rockford or the State of Tennessee or their duly authorized representatives are hereby authorized to enter, examine, inspect and survey any business premises in the City of Rockford for which a adult-oriented business license has been issued pursuant to this section to enforce the provisions of this chapter. Should any conducted inspections reveal condition(s) which, in the opinion of the authorized inspector, warrant a more thorough investigation, he/she shall report such condition(s) to such person or agency and request that such premises be examined and any findings be reported to the Blount County Sheriff and the city recorder. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law enforcement of health and safety or criminal laws wherein such right is vested by other ordinances or laws. (as added by Ord. #120904, Jan. 2005)

9-219. et seq. Reserved. (as added by Ord. #120904, Jan. 2005)

CHAPTER 3

MESSAGE PARLORS MESSAGE TECHNICIANS AND OTHER MESSAGE PARLOR EMPLOYEES

SECTION

- 9-301. Definitions.
- 9-302. License required.
- 9-303. Application for license.
- 9-304. Standards for issuance of license.
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- 9-306. Application for permit.
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- 9-309. Display of license or permit.
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- 9-318. Individual health requirements for massage technicians.
- 9-319. Prohibitions and unlawful sexual acts.
- 9-320. Location restrictions.
- 9-321. Penalties and prosecution.
- 9-322. Invalidity of part.
- 9-323. et seq. Reserved.

9-301. Definitions. For the purpose of this chapter, the words and phrases used herein shall have the following meanings, unless otherwise clearly indicated by the context:

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

(2) "Massage parlor" shall include, but not be limited to, any premises, place of business, or membership club and further means any premises to which the public patrons or members (regardless of whether or not the establishment is categorized as a private or members only club) are invited or admitted and/or

which are so physically arranged as to provide booths, cubicles, rooms, compartments or stalls separate or not from the common areas of the premises for the purpose of conducting the business or activity of furnishing, providing or giving for a fee, or any other form of consideration, a massage, bath, body oiling, body painting, or similar massage service or procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic, or office of a duly licensed physician, surgeon, physical therapist, chiropractor or osteopath. Nor shall this definition be construed to include a barbershop or beauty salon operated by a duly licensed barber or cosmetologist, so long as any massage administered therein is limited to the head and neck areas of the human body.

(3) "Massage technician" shall be any person who is administering a massage to another at a massage parlor.

(4) "City commission" means the Mayor and City Commissioners of the City of Rockford, Tennessee.

(5) "Employee" means any and all person, including independent contractors, who work in or at or render any services directly related to the operation of a massage parlor.

(6) "Owner and/or operator" means any person, partnership, corporation, or entity of any type or character operating, conducting or maintaining a massage parlor. (as added by Ord. #120904-2, Jan. 2005)

9-302. License required. (1) Except as provided in subsection (5) below, from and after the effective date of this chapter, no massage parlor shall be operated or maintained in the City of Rockford without first obtaining a license to operate issued by the City of Rockford.

(2) A license may be issued only for one (1) massage parlor located at a fixed and certain place. Any person, partnership, or corporation which desires to operate more than one (1) massage parlor must have a separate license for each massage parlor.

(3) No license or interest in a license may be transferred to any person, partnership, or corporation.

(4) It shall be unlawful for any technician, employee, owner and/or operator to knowingly work in or about, or to knowingly perform any service directly related to the operation of any unlicensed massage parlor or any adult-oriented type of establishment.

(5) All existing massage parlor(s) at the time of the passage of this article must submit an application for a license within sixty (60) days of the passage of this chapter on the second and final reading. If a license is not issued within said sixty day period, then such existing massage parlor shall immediately cease operations.

(6) No license may be issued for any location unless the premises are lawfully zoned for massage parlor and unless all requirements of the zoning ordinance, building codes, electrical and plumbing codes, fire codes, and health codes are complied with. (as added by Ord. #120904-2, Jan. 2005)

9-303. Application for license. (1) Any person, partnership, or corporation desiring to secure a license shall make application to the city recorder of the City of Rockford. The application shall be filed with and dated by the city recorder.

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

- (a) Name and address, including all aliases.
- (b) Written proof that the individual(s) is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant(s) for the past five (5) years.
- (d) The applicants' height, weight, color of eyes and hair.
- (e) The business, occupation or employment of the applicant(s) for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant(s) previously operated in this or any other county, city or state under a massage parlor license or similar business license; whether the applicant(s) has ever had such a license revoked or suspended, the reason therefore, and the business entity or trade name under which the applicant operated that was subject to the suspension or revocation.
- (g) All criminal statutes, whether federal or state, or city ordinance violation convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of each applicant.
- (i) The address of the massage parlor to be operated by the applicant(s).
- (j) The names and addresses of all persons, partnerships, limited liability entities, or corporations holding any beneficial interest in the real estate upon which such massage parlor is to be operated, including but not limited to, contract purchasers or sellers, beneficiaries of land trust or lessees subletting to applicant.
- (k) If the premises are leased or being purchased under contract, a copy of such lease or contract shall accompany the application.
- (l) The length of time each applicant has been a resident of the City of Rockford, or its environs, immediately preceding the date of the application.

(m) If the applicant is a limited liability entity, the applicant shall specify the name, the date and state of organization, the name and address of the registered agent and the name and address of each member of the limited liability entity.

(n) A statement by the applicant that he and/or she are familiar with the provisions of this chapter and are in compliance with them.

(o) All inventory, equipment, or supplies which are to be leased, purchased, held in consignment or in any other fashion kept on the premises or any part or portion thereof for storage, display, any other use therein, or in connection with the operation of said massage parlor, or for resale, shall be identified in writing accompanying the application specifically designating the distributor business name, address, phone number, and representative's name.

(p) Evidence in form deemed sufficient to the city manager that the location for the proposed massage parlor complies with all requirements of the zoning ordinances, building codes, electrical and plumbing codes, fire codes, and health codes as now existing or hereafter amended.

(3) Within ten (10) days of receiving the results of the investigation conducted by the City of Rockford, the city recorder shall notify the applicant that his and/or her application is conditionally granted, denied or held for further investigation. Such additional investigation shall not exceed thirty (30) days unless otherwise agreed to by the applicant. Upon conclusion of such additional investigation, the city recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter, before the city commission, at which time the applicant may present evidence as to why his and/or her license should not be denied. The city commissioner shall hear evidence as to the basis of the denial and shall affirm or reject the denial of any application at the hearing. If any application for a massage parlor license is denied by the city commission and no agreement is reached with the applicant concerning the basis for denial, the city attorney shall institute suit for declaratory judgment in the Chancery Court of Blount County, Tennessee, within five (5) days of the date of any such denial and shall seek an immediate judicial determination of whether such license or permit may be properly denied under the law.

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

applicant that he and/or she is ineligible for such license and shall be grounds for denial thereof by the city manager and/or city recorder.

(6) The total cost incurred by the City of Rockford, Tennessee in its investigation of the applicant(s) shall be the sole responsibility of the applicant(s) and shall be paid in full by the applicant(s) to the city recorder prior to required license investigation being conducted. (as added by Ord. #120904-2, Jan. 2005)

9-304. Standards for issuance of license. (1) To receive a license to operate a massage parlor, an applicant must meet the following standards:

(a) If the applicant is an individual:

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

(ii) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity, or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) The applicant shall not have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(b) If the applicant is a corporation:

(i) All officers, directors and stockholders required to be named under § 9-502 shall be at least eighteen (18) years of age.

(ii) No officer, director or stockholder required to be named under § 9-502 shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of application.

(c) If the applicant is a partnership, joint venture, limited liability entity, or any other type of organization where two (2) or more persons have a financial interest:

(i) All persons having a financial interest in the partnership, joint venture or other type of organization shall be at least eighteen (18) years of age.

(ii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or other crime of a sexual nature in any jurisdiction within five (5) years immediately preceding the date of the application.

(iii) No persons having a financial interest in the partnership, joint venture or other type of organization shall have been found to have previously violated this chapter within five (5) years immediately preceding the date of the application.

(2) No license shall be issued unless the City of Rockford has investigated the applicant's qualifications to be licensed. The results of that investigation shall be filed in writing with the city recorder not later than twenty (20) days after the date of the application. (as added by Ord. #120904-2, Jan. 2005)

9-305. Permit required. In addition to the license requirements previously set forth for owners and/or operators of a massage parlor, no person shall be a technician or employee in massage parlor without first obtaining a valid permit by the city recorder. (as added by Ord. #120904-2, Jan. 2005)

9-306. Application for permit. (1) Any person desiring to secure a permit shall make application to the city recorder. The application shall be filed with and dated by the city recorder.

(2) The application for a permit shall be upon a form provided by the city recorder. An applicant for a permit shall furnish the following information under oath:

- (a) Name and address, including all aliases.
- (b) Written proof that the individual is at least eighteen (18) years of age.
- (c) All residential addresses of the applicant for the past five (5) years.
- (d) The applicants' height, weight, color of eyes, and hair.
- (e) The business, occupation or employment of the applicant for five (5) years immediately preceding the date of the application.
- (f) Whether the applicant, while previously operating in this or any other city or state under a massage parlor permit or similar business for whom applicant was employed or associated at the time, has ever had such a permit revoked or suspended, the reason thereof, and the business entity or trade name for whom the applicant was employed or associated at the time of such suspension or revocation.
- (g) All criminal statutes, whether federal, state or city ordinance violation, convictions, forfeiture of bond and pleadings of nolo contendere on all charges, except minor traffic violations.
- (h) Fingerprints and two (2) portrait photographs at least two (2) inches by two (2) inches of the applicant.
- (i) The length of time each applicant has been a resident of the City of Rockford, or its environs, immediately preceding the date of the application.
- (j) A statement by the applicant that he and/or she is familiar with the provisions of this chapter and are in compliance with them.

(3) Within ten (10) days of receiving the results of the investigation conducted by the City of Rockford, the city recorder shall notify the applicant that his and/or her application is granted, denied, or held for further investigations. Such additional investigation shall not exceed an additional thirty (30) days unless otherwise agreed to by the applicant. Upon the conclusion of such additional investigations, the city recorder shall advise the applicant in writing whether the application is granted or denied.

(4) Whenever an application is denied or held for further investigation, the city recorder shall advise the applicant in writing of the reasons for such action. If the applicant requests a hearing within ten (10) days of receipt of notification of denial, a public hearing shall be held thereafter, before the city commission, at which time the applicant may present evidence bearing upon the question.

(5) Failure or refusal of the applicant to give any information relevant to the investigation of the application, or his and/or her refusal or failure to appear at any reasonable time and place for examination under oath regarding said application or his and/or her refusal to submit to or cooperate with any investigation required by this chapter, shall constitute an admission by the applicant that he and/or she is ineligible for such license and shall be grounds for denial thereof by the city recorder.

(6) The total cost incurred by the City of Rockford, Tennessee in its investigation of the applicant(s) shall be the sole responsibility of the applicant(s) and shall be paid in full by the applicant(s) to the city recorder prior to the required license investigation being conducted. (as added by Ord. #120904-2, Jan. 2005)

9-307. Standards for issuance of permit. (1) To receive a permit as a technician or employee, an applicant must meet the following standards:

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

(b) The applicant shall not have been convicted of or pleaded nolo contendere to a felony or any crime involving moral turpitude, prostitution, obscenity or any other crime of a sexual nature (including violation of massage parlors or any adult-oriented establishment laws or ordinances) in any jurisdiction within five (5) years immediately preceding the date of the application.

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

(2) No permit shall be issued unless the City of Rockford has investigated the applicant's qualifications to receive a permit. The results of that investigation shall be filed in writing with the city recorder not later than twenty (20) days after the date of the application. (as added by Ord. #120904-2, Jan. 2005)

9-308. Fees. (1) A non-refundable license fee of ten dollars (\$10.00) shall be submitted with the application for a license.

(2) A non-refundable permit fee of ten dollars (\$10.00) shall be submitted with the application for a permit.

(3) A non-refundable investigation fee shall be submitted with any application for a license and/or permit. (as added by Ord. #120904-2, Jan. 2005)

9-309. Display of license or permit. (1) The license shall be displayed in a conspicuous public place in the massage parlor so that it may be readily seen by persons entering the premises.

(2) The permit shall be carried by a technician and/or any other employee, upon his and/or her person and shall be displayed upon request of any customer, officer of the Blount County Sheriff's Department, or any other person designated authorized by the City of Rockford. (as added by Ord. #120904-2, Jan. 2005)

9-310. Investigation of premises prior to issuance of license or permit. The city manager, before authorizing the issuing by the city recorder of any massage parlor license shall cause an investigation be made of the premises named and described in the application for a massage parlor license under this section of this chapter for the purpose of determining whether the massage parlor complies with the provisions of this chapter, the zoning ordinances, all building, fire, plumbing and electrical codes, and health codes and for this purpose, a copy of the application shall immediately be referred to the building official(s) and health official(s) to make or cause to be made a thorough investigation of the premises and the result of this investigation and whether such premises comply with the zoning, building, fire, plumbing and electrical codes, and health codes shall be submitted to the city manager within thirty (30) days of the request. (as added by Ord. #120904-2, Jan. 2005)

9-311. Revocation of license or permit. (1) Power, generally. The city manager and/or the city recorder shall have the power to revoke or suspend any license or permit for up to ten (10) years for any of the following reasons:

(a) Discovery that false or misleading information or data was given on any application or material facts were omitted from any application.

(b) The owner and/or operator, technician, or any employee of the owner and/or operator, violates any provision of this chapter or any rule or regulation adopted by the city commissioner pursuant to this chapter; provided, however, that in the case of a first offense by an owner and/or operator where the conduct was solely that of a technician and/or employee, the penalty shall not exceed a suspension of one hundred and twenty (120) days if the city manager shall find that the owner and/or operator had no actual or constructive knowledge of such violation and

could not by the exercise of due diligence have had such actual or constructive knowledge.

(c) The owner and/or operator, technician and/or employee shall become ineligible to obtain a license or permit.

(d) Any cost or fee required to be paid by this chapter is not paid.

(e) An owner and/or operator that employs a technician and/or employee who does not have a permit or provide space on the premises, whether by lease or otherwise, to an independent contractor who performs or works as a massage technician and/or employee of said independent contractor without a permit.

(f) Any intoxicating liquor, cereal malt beverage, narcotic or controlled substance is allowed to be sold or consumed on the licensed premises.

(g) Any owner and/or operator, technician and/or employee sells, furnishes, gives or displays, or causes to be sold, furnished, given or displayed to any minor any massage services and/or procedures as afore mentioned and described.

(h) Any owner and/or operator, technician and/or employee denies access of law enforcement personnel to any portion of the licensed premises where massage services and/or procedures are permitted or to any portion of the licensed premises within massage services and/or procedures or massage material(s) are displayed or sold.

(i) Any owner and/or operator that allows continuing violations of the rules and regulations of the Blount County Health Department.

(j) Any owner and/or operator who fail to maintain the licensed premises in a clean, sanitary and safe condition.

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

(2) The city manager and/or city recorder, before revoking or suspending any license or permit, shall give the owner and/or operator, technician and/or employee at least ten (10) days written notice of the charges against him and/or her and the opportunity for a public hearing before the city commission, at which time the owner and/or operator, technician and/or employee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing.

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

(4) Any owner and/or operator, technician or employee whose license or permit is revoked shall not be eligible to receive a license or permit for ten (10) years from the date of revocation. No location or premises for which a

license has been issued shall be used as a massage parlor for ten (10) years from the date of revocation of the license. (as added by Ord. #120904-2, Jan. 2005)

9-312. Hours of operation. (1) No massage parlor shall be open to provide massage services and/or procedures between the hours of 9:00 P.M. and 8:00 A.M. Mondays through Saturdays, and no massage parlor shall be open on Sundays; however, it shall be lawful for such establishments to remain open for the transaction of other lawful business.

(2) All massage parlors shall be open to inspection at all hours of operation and/or any other reasonable times by the City of Rockford, the Blount County Sheriff's Department, or any such other persons as the City of Rockford shall deem duly authorized. (as added by Ord. #120904-2, Jan. 2005)

9-313. Responsibilities of the owner and/or operator. (1) The owner and/or operator shall maintain a register of all technicians and/or employees showing the names, and aliases used by the technician and/or employee, home address, age, birth date, sex, height, weight, color of hair and eyes, phone numbers, social security number, date of employment and determination, and duties of each technician and/or employee and such other information as may be required by the City of Rockford. The above information on each technician and/or employee shall be maintained in the register on the premises for a period of five (5) years following termination.

(2) The operator shall make the register of the technicians and/or employees available immediately for inspection by the City of Rockford and/or an officer of the Blount County Sheriff's Office upon demand at all reasonable times including all hours of operation.

(3) Every act or omission by a technician and/or employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the owner and/or operator if such act or omission occurs either with the authorization, knowledge, or approval of the owner and/or operator, or as a result of the owner and/or operator's negligent failure to supervise the technician and/or employee's conduct, and the owner and/or operator shall be punishable for such act or omission in the same manner as if the owner and/or operator committed the act or caused the omission.

(4) An owner and/or operator shall be responsible for the conduct of all technicians and/or employees while on the licensed premises and any act or omission of any technicians and/or employees constituting a violation of the provisions of this chapter shall be deemed the act or omission of the owner and/or operator for purposes of determining whether the owner and/or operator's license shall be revoked, suspended or renewed.

(5) There shall be posted and conspicuously displayed in the common areas of each massage parlor a list of all services, procedures and/or products provided on the premises. Such list shall further indicate the specific fee or charge in dollar amounts for each service, procedure and/or product listed. The

owner and/or operator shall make the list available immediately upon demand of the City of Rockford and/or an officer of the Blount County Sheriff's Office at all reasonable times including hours of operation.

(6) No owner and/or operator, technician, and/or employee of a massage parlor shall allow any minor to loiter around or to frequent a massage parlor or to allow any minor to view any services, procedures and/or products as defined herein.

(7) No owner and/or operator, technician, and/or employee of a massage parlor shall demand or collect all or any portion of a fee for massage services and or procedures before its completion.

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

This Massage Parlor and its Technicians are regulated by the City of Rockford Municipal Ordinance. Technicians and/or employees are:

1. Not permitted to engage in any type of sexual conduct or contact;
2. Not permitted to expose their sex organs;
3. Not permitted to demand or collect all or any portion of a fee for massage services and/or procedures before its completion.

(as added by Ord. #120904-2, Jan. 2005)

9-314. Public health cards required for massage technicians. It shall be unlawful for any persons to perform the services of a massage technician at a massage parlor in the City of Rockford without a valid public health card issued pursuant to this chapter. (as added by Ord. #120904-2, Jan. 2005)

9-315. Examination of massage techniques and issuance of a public health card. (1) All persons who desire to perform the services and procedures of massage technician at a massage parlor shall first undergo a physical examination for contagious and communicable diseases which, shall include a recognized blood test for syphilis, a culture for gonorrhea, a chest X-ray which is to be made and interpreted by a trained radiologist, and shall furnish a certificate based upon and issued within thirty days of such examination by the Blount County Health Department and stating that the person examined is either free from any contagious or communicable diseases or incapable of communicating any such diseases to others. Such persons shall undergo the physical examination referred to above and submit to the city manager and/or city recorder the certificate required herein within five (5) days of the commencement of their employment and, at least once every six (6) months thereafter.

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

(3) The employer of any such person shall require all such persons to undergo the examination and obtain the certification provided by this section, shall register at the place of employment of each employee, and shall have the health cards and registration of all employees available for the officer of the Blount County Sheriff, the city manager, the city recorder, or their duly authorized representatives at all hours of operation and/or any other reasonable times. (as added by Ord. #120904-2, Jan. 2005)

9-316. Right of entry. The Blount County Sheriff, city manager, city recorder, building official, county health official, fire department official, or similar person or agency charged with the responsibility for the enforcement of particular health and safety ordinances or laws of the City of Rockford or the State of Tennessee or their duly authorized representatives are hereby authorized to enter, examine, inspect and survey any premises in the City of Rockford for which a massage parlor license has been issued pursuant to this section to enforce the provisions of this chapter. Should any conducted inspections reveal condition(s) which, in the opinion of the inspector, warrants a more thorough investigation, he/she shall report such condition(s) to such person or agency and request that such premises be examined and any findings be reported to the Blount County Sheriff and the city manager. This section shall not be deemed to restrict or to limit the right of entry otherwise vested in any law enforcement of health and safety or criminal laws wherein such right of entry is vested by other ordinances or laws. (as added by Ord. #120904-2, Jan. 2005)

9-317. Minimum standards for parlors. No massage parlor shall be operated, established or maintained in the City of Rockford that does not comply with the following minimum standards:

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

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

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

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

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

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

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

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

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

(10) Animals, except for seeing-eye dogs, shall not be permitted in the massage work areas.

(11) No massage parlor shall employ a massage technician who does not comply with the provisions of this chapter. (as added by Ord. #120904-2, Jan. 2005)

9-318. Individual health requirements for massage technicians. No massage technician shall administer massage at a massage parlor who does not comply with the following individual health requirements:

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

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

(3) Each massage technician shall wash his and/or her hands in hot running water, using proper soap and/or disinfectant before administering a massage to each new person. (as added by Ord. #120904-2, Jan. 2005)

9-319. Prohibitions and unlawful sexual acts. (1) It shall be unlawful for any person in a massage parlor to place his and/or her hand or hands upon or to touch with any part of his and/or her body, or to fondle in any manner, or to massage, a sexual or genital part and/or area of any other person.

(2) No owner and/or operator, technician, or employee of any massage parlor shall permit to be performed, offer to perform, or allow customers, technicians or employees to perform sexual intercourse or oral or anal copulation or other contact stimulation of the genitalia.

(3) No owner and/or operator, technician, or employee shall encourage or permit any person upon the premises to touch, caress, or fondle the breasts, buttocks, anus or genitals of any other person.

(4) No owner and/or operator, technician, or employee shall encourage or permit any other person upon the premises to touch, caress, or fondle the breasts, buttocks, anus, or genitals.

(5) No owner and/or operator, technician, employee, or customer shall be unclothed or in such attire, costume, or clothing so as to expose to view any portion of the sex organs, breasts or buttocks of said owner and/or operator, technician, or employee with the intent to arouse or gratify the sexual desires of the owner and/or operator, technician, employee or customer.

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

(7) It shall be unlawful for any person in a massage parlor to administer a massage to a person of the opposite sex.

(8) Every person owning, operating and/or managing a massage parlor shall post a copy of this section in a conspicuous place in the massage parlor so that it may be readily seen by persons entering the premises. (as added by Ord. #120904-2, Jan. 2005)

9-320. Location restrictions. (1) Massage parlors will be allowed only in a Heavy Industrial Zoning District (M-2).

(2) No massage parlor may be located within two thousand (2000) feet of any adult-oriented business establishment. (as added by Ord. #120904-2, Jan. 2005)

9-321. Penalties and prosecution. (1) Any person, partnership, corporation, or other business entity that is found to have violated this chapter shall be fined a definite sum not exceeding fifty dollars (\$50.00) for each violation and shall result in the suspension or revocation of any permit or license.

(2) Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one (1) hour of time shall be considered a separate offense for each hour of violation. (as added by Ord. #120904-2, Jan. 2005)

9-322. Invalidity of part. Should any court of competent jurisdiction declare any section, clause, or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause, or provision so declared unconstitutional, and shall not affect any other section, clause or provision of this chapter. (as added by Ord. #120904-2, Jan. 2005)

9-323. et seq. Reserved (as added by Ord. #120904-2, Jan. 2005)

TITLE 10

ANIMAL CONTROL

CHAPTER

1. DOMESTIC ANIMALS.
2. VICIOUS DOGS AND CATS.

CHAPTER 1

DOMESTIC ANIMALS

SECTION

- 10-101. Seizure and disposition of domestic animals.
- 10-102. Running at large prohibited.
- 10-103. Keeping in such manner as to become a nuisance prohibited.

10-101. Seizure and disposition of domestic animals. Any domestic animals found running at large may be seized and disposed of by proper authority as designated by board of commissioners. (1993 Code, § 10-101, as amended by Ord. #010809, Feb. 2009)

10-102. Running at large prohibited. It shall be unlawful for any person owning or being in charge of any cows, sheep, horses, mules or goats, or any chickens, ducks, geese, turkeys, or other domestic fowl, cattle, livestock, or any domesticated animals 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. (1993 Code, § 10-102, modified)

10-103. Keeping in such manner as to become a nuisance prohibited. No animal or fowl shall be kept in such a place or condition as to become a nuisance because of either noise, odor, contagious disease, or other reason. (1993 Code, § 10-103)

CHAPTER 2

VICIOUS DOGS AND CATS

SECTION

10-201. Definition.

10-202. Procedure for declaring a dog or cat vicious.

10-203. Notification of vicious dog or cat declaration.

10-204. Hearing on vicious dog or vicious cat declaration.

10-205. Appeal from vicious dog or cat declaration.

10-206. Requirements for keeping a vicious dog or cat.

10-207. Impoundments.

10-208. Notice of impoundment.

10-209. Exceptions.

10-210. Change of status.

10-211. Change of ownership.

10-201. Definition. Vicious dogs and cats means:

(1) Any dog or cat with the known propensity, tendency, or disposition to attack without provocation, to cause injury, or threaten the safety of human beings or other domestic animal; or

(2) Any dog or cat which, without provocation, has attacked, or bitten, or scratched a human being or domestic animal; or

(3) Any dog or cat owned or harbored primarily or in part for the purpose of animal fighting or to be used in and for training for animal fighting. (as added by Ord. #010809, Feb. 2009)

10-202. Procedure for declaring a dog or cat vicious. (1) An animal control officer, police officer, or any adult person may request under oath that a dog or cat be classified as vicious as defined in § 10-201 by submitting a sworn, written complaint. Upon receipt of such complaint, the city manager (or his designee) shall notify the owner of the dog or cat, in writing, that a complaint has been filed and that an investigation into the allegations as set forth in the complaint will be conducted.

(2) At the conclusion of an investigation, the city manager (or his designee) may:

(a) Determine that the dog or cat is not vicious and, waive any impoundment fees incurred and release the dog or cat to its owner; or

(b) Determine that the dog or cat is vicious and order the owner to comply with the requirements for keeping a vicious dog or cat set forth in § 10-206 and if the dog or cat is impounded, release the dog or cat to its owner after the owner has paid all fees incurred for impoundment. If all impoundment fees have not be paid within ten (10) days after the final

determination that the dog or cat is vicious, the city manager (or his designee) may cause the dog or cat to be destroyed.

(c) Nothing in this chapter shall be construed to require a dog or cat to be declared vicious prior to taking action under state law. (as added by Ord. #010809, Feb. 2009)

10-203. Notification of vicious dog or cat declaration. (1) Within five (5) days after declaring a dog or cat vicious, the city manager (or his designee) shall notify the owner by certified mail or personal delivery of the dog's or cat's designation as a vicious dog or vicious cat and other requirements for keeping a vicious dog or cat as set forth in § 10-206. The city manager (or his designee) shall also notify the City of Maryville Animal Control Facility of the designation of any dog or cat as vicious.

(2) The notice shall inform the owner that he or she may request, in writing, a hearing to contest the city manager's finding and the designation within five (5) days after delivery of the vicious dog or cat declaration notice. (as added by Ord. #010809, Feb. 2009)

10-204. Hearing on vicious dog or vicious cat declaration.

(1) The city manager shall hold such a hearing within ten (10) days after receiving the owner's written request for such a hearing. The city manager shall provide notice of the date, time, and location of the hearing to the owner by certified mail or personal delivery and to the complainant by regular mail.

(2) At the hearing, all interested parties shall be given the opportunity to present evidence on the issue of the animal's viciousness. Criteria to be considered at a hearing shall include but not be limited to the following:

- (a) Provocation;
- (b) Severity of attack or injury to a person or animal;
- (c) Previous aggressive history of the dog or cat;
- (d) Observable behavior of the dog or cat;
- (e) Site and circumstances of the incident; and
- (f) Statements from interested parties.

(3) A determination at the hearing that the dog or cat is in fact vicious shall subject the dog or cat and its owner to the requirements of § 10-206. (as added by Ord. #010809, Feb. 2009)

10-205. Appeal from vicious dog or cat declaration. If the city manager (or his designee) determines that the dog or cat is vicious at the conclusion of the hearing conducted under § 10-204, that decision shall be final unless the owner of the dog or cat appeals the decision to circuit court in the time and manner provided by state law. (as added by Ord. #010809, Feb. 2009)

10-206. Requirements for keeping a vicious dog or cat.

(1) Confinement. All vicious dogs or cats shall be securely confined indoors or in an enclosed and locked pen or structure upon the premises of the owner that is suitable to prevent the entry of children and is designed to prevent the dog or cat from escaping. The pen or structure shall have minimum dimensions of five feet (5') in width and length by ten feet (10') in height and must have secure sides and a secure top attached to the sides. If no bottom is secured to the sides, the sides must be embedded into the ground no less than two feet (2'). All pens and structures must be kept clean and sanitary. The enclosure must provide shelter and protection from the elements and must provide adequate exercise room, light, and ventilation. Under no circumstances may any vicious dog or cat be confined by a fence, whether it is electronic, a similar underground wire system, or otherwise. Under no circumstances may more than one (1) vicious dog or cat be kept in any one (1) pen or structure.

(2) Indoor confinement. No vicious dog or cat may be kept on a porch, patio, or in any part of a house or structure that would allow the dog or cat to exit the structure on its own volition. In addition, no vicious dog or cat may be kept in a house or structure when open windows or screens doors are the only obstacle preventing the dog or cat from exiting the house or structure.

(3) Number of vicious dogs or cats per residence. Only one (1) animal that has been declared vicious may be owned per residence.

(4) Leash and muzzle. The owner of a vicious dog or cat shall not allow the dog or cat to go outside its kennel, pen, or structure unless the dog or cat is muzzled, under the physical control of a capable adult, and/or restrained by a leash not more than four feet (4') in length and of sufficient strength to control the dog or cat. The muzzle must not cause injury to the dog or cat or interfere with its vision or respiration, but must prevent the dog or cat from biting any human being or animal.

(5) Signs. The owner of a vicious dog or cat shall display, in a prominent place on the owner's premises, a clearly visible warning sign reading "Beware of Vicious Dog or Cat." The sign shall be readable from the driveway entrance or street. The owner shall also display a sign with a symbol warning children of the presence of a vicious dog or cat. Similar signs shall be posted on the dog or cat kennel, pen, or structure. The sign shall be at least twelve inches by twelve inches (12" x 12") in size.

(6) Insurance. The owner of a vicious dog or cat shall obtain public liability insurance of at least one hundred thousand dollars (\$100,000.00), per dog or cat, insuring the owner for any damage or personal injury that may be caused by the owner's vicious dog or cat. The policy shall contain a provision requiring the City of Rockford and the Maryville Animal Control Facility to be notified immediately by the agent issuing the policy that the policy is in effect and in the event that the policy is cancelled, terminated, or expired. If there is a lapse in insurance or a cancellation, the owner will be in violation of this title.

(7) Compliance: consequences for failure to comply. For the safety and welfare of the general public, an owner of a vicious dog or cat must comply with the requirements for keeping a vicious dog or cat within the following timeframe:

(a) Immediate. Immediately upon the owner's receipt of the declaration notice, the owner shall comply with all of the requirements set forth in § 10-206.

(b) Failure to comply. Failure of an owner to comply with any of the requirements for keeping a declared vicious dog or cat, or failure of an owner to continue compliance with said requirements, shall result in the vicious dog or cat being apprehended by the Maryville Animal Control Facility. Said vicious dog or cat shall remain in the custody and control of the Maryville Animal Control Facility until such time as the owner can prove, to the city's satisfaction, compliance the requirements for keeping a vicious dog or cat. If the declared vicious dog or cat is impounded for more than five (5) working days the declared vicious dog or cat becomes the property of the city and may be destroyed.

(c) Costs for impoundment. At any time that said dog or cat is apprehended by Maryville Animal Control Facility and held in custody, whether it is after an unprovoked attack and before the declaration of vicious or after the declaration as vicious, the owner of the dog or cat is solely responsible for all of the costs incurred for the boarding, veterinarian or other professional services for which the dog or cat needs as determined by animal control officers and animal control shelter staff. (as added by Ord. #010809, Feb. 2009)

10-207. Impoundments. When a dog or cat has attacked a human being or domestic animal, and a police officer or animal control officer witnessed the attack or witnessed the injuries caused by the attack, such dog or cat shall be impounded. (as added by Ord. #010809, Feb. 2009)

10-208. Notice of impoundment. Within five (5) days of impoundment of a dog or cat under § 10-207, the City of Maryville Animal Control Facility shall notify the dog or cat owner, if known, in writing of the impoundment. (as added by Ord. #010809, Feb. 2009)

10-209. Exceptions. (1) This chapter shall not apply to any dog used by any law enforcement agency.

(2) No dog or cat shall be declared vicious for injuries or damage sustained by a person who is entering the owner's property to commit any type of crime such as burglary, robbery, assault, willful trespass, or any other tort crime.

(3) No dog or cat shall be declared vicious for injuries or damage sustained by a person who is teasing, tormenting, abusing, assaulting, or otherwise provoking the dog or cat.

(4) No dog or cat shall be declared vicious solely because it bites or attacks:

(a) A person assaulting its owner, excluding a law enforcement officer attempting to subdue or effect the arrest of a subject; or

(b) An unrestrained animal that attacks it or its young while it is restrained in compliance with this title. (as added by Ord. #010809, Feb. 2009)

10-210. Change of status. The owner of a declared vicious dog or cat shall notify the City of Rockford and Maryville Animal Control Facility if any of the following should occur:

(1) Immediately if the vicious dog or cat is unconfined and on the loose, or has attacked a human being or domestic animal without provocation; or

(2) If the owner has moved outside the city limits, in which case the owner shall give the owner's new address; or

(3) If the dog or cat has died; or

(4) If the vicious dog or cat's owner sells, gives away, or otherwise transfers custody of the vicious dog or cat, the owner shall within three (3) days, provide Maryville Animal Control Facility with the name, address and telephone number of the new owner. (as added by Ord. #010809, Feb. 2009)

10-211. Change of ownership. (1) The previous owner shall notify the new owner of the dog or cat's designation as a vicious dog or cat, and if the new owner resides within the city limits, of the requirements and conditions for keeping a vicious dog or cat as set forth in § 10-206.

(2) If the new owner resides within the city limits, the new owner must obtain the required enclosure prior to the acquisition of the vicious dog or cat or confine the dog or cat indoors as required in § 10-206.

(3) The new owner must fully comply with the provisions of this chapter, including obtaining liability insurance, prior to the acquisition of the vicious dog or cat. (as added by Ord. #010809, Feb. 2009)

TITLE 11

MUNICIPAL OFFENSES

CHAPTER

1. OFFENSES AGAINST THE PEACE AND QUIET.

CHAPTER 1

OFFENSES AGAINST THE PEACE AND QUIET

SECTION

11-101. Disturbing the peace.

11-102. Anti-noise regulations.

11-103. Violation and penalty.

11-101. Disturbing the peace. No person shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive, or obstreperous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control. (1993 Code, § 11-101)

11-102. Anti-noise regulations. Subject to the provisions of this section, the creating of any unreasonably loud, disturbing, and unnecessary noise is prohibited. Noise of such character, intensity, or duration as to be detrimental to the life or health of any individual, or in disturbance of the public peace and welfare, is prohibited.

(1) **Miscellaneous prohibited noises enumerated.** The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:

(a) **Blowing horns.** The sounding of any horn or other device on any automobile, motorcycle, bus, truck, or vehicle while not in motion except as a danger signal if another vehicle is approaching, apparently out of control, or if in motion, only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

(b) **Radios, phonographs, etc.** The playing of any radio, phonograph, or any musical instrument or sound device, including but not limited to loudspeakers or other devices for reproduction or

amplification of sound, either independently of or in connection with motion pictures, radio, or television, in such a manner or with such volume, particularly during the hours between 10:00 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.

(c) Yelling, shouting, etc. Yelling, shouting, whistling, or singing on the public streets, particularly between the hours of 10:00 P.M. and 7:00 A.M., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any person in any hospital, dwelling, hotel, or other type of residence, or of any person in the vicinity.

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

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

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

(g) Exhaust discharge. To discharge into the open air the exhaust of any steam engine, stationary internal combustion engine, motor vehicle, or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(h) Building operations. The erection (including excavation), demolition, alteration, or repair of any building in any residential area or section or the construction or repair of streets and highways in any residential area or section, other than between the hours of 7:00 A.M. and 6:00 P.M. on week days, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building 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.

(i) Noises near schools, hospitals, churches, etc. The creation of any excessive noise on any street adjacent to any hospital or adjacent to any school, institution of learning, church, or court while the same is in session.

(j) Loading and unloading operations. The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates, and other containers.

(k) Noises to attract attention. The use of any drum, loudspeaker, or other instrument or device emitting noise for the purpose of attracting attention to any performance, show, or sale or display of merchandise.

(l) Loudspeakers or amplifiers on vehicles. The use of mechanical loudspeakers or amplifiers on trucks or other moving or standing vehicles for advertising or other purposes.

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

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

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

(c) Noncommercial and nonprofit use of loudspeakers or amplifiers. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in character and in the course of advertising functions sponsored by nonprofit organizations. However, no such use shall be made until a permit therefor is secured from the board of commissioners. Hours for the use of an amplifier or public address system will be designated in the permit so issued and the use of such systems shall be restricted to the hours so designated in the permit. (1993 Code, § 11-102, as amended by Ord. #051409-A, June 2009)

11-103. Violation and penalty. A violation of any provision of this chapter shall subject the offender to a penalty under the general penalty provision of this code. Each day a violation is allowed to continue shall constitute a separate offense. (1993 Code, § 11-103, modified)

TITLE 12

BUILDING, UTILITY, ETC. CODES

CHAPTER

1. BUILDING PERMITS.
2. BUILDING CODE.

CHAPTER 1

BUILDING PERMITS

SECTION

- 12-101. Building permit required.
12-102. Permit fee.

12-101. Building permit required. A building permit, including general plan, is required within the City of Rockford, Tennessee. (1993 Code, § 12-101)

12-102. Permit fee. A building permit fee will be established by a resolution of the board of commissioners. (1993 Code, § 12-102, modified)

CHAPTER 2

BUILDING CODE

SECTION

12-201. Building code adopted.

12-202. Modifications.

12-201. Building code adopted. Pursuant to authority granted by Tennessee Code Annotated, §§ 6-54-501 through 6-54-506, and for the purpose of regulating the construction, alteration, repair, use, occupancy, location, maintenance, removal, and demolition of every building or structure or any appurtenance connected or attached to any building or structure, the International Building Code,¹ 2009 edition, as prepared and adopted by the International Code Council, are hereby adopted and incorporated by reference as a part of this code, and are hereinafter referred to as the building codes. Any matters in the said building code which are contrary to existing ordinances of the City of Rockford, are hereby repealed and, to that extent any existing ordinances to the contrary are hereby repealed in that respect only. (Ord. #03-01-03, April 2003, as amended by Ord. #090910, Sept. 2010)

12-202. Modifications. Within said building code, when reference is made to the duties of a certain official named therein, that designated official of the City of Rockford, Tennessee who has duties corresponding to those of the named official in said building code shall be deemed to be the responsible official insofar as enforcing the provisions of said building code are concerned. (Ord. #03-01-03, April 2003)

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

TITLE 13

PROPERTY MAINTENANCE REGULATIONS¹

CHAPTER

1. JUNKYARDS.
2. INOPERABLE CARS.
3. SLUM CLEARANCE.
4. MISCELLANEOUS.

CHAPTER 1

JUNKYARDS

SECTION

13-101. Junkyards.

13-101. Junkyards.² All junkyards within the corporate limits shall be operated and maintained subject to the following regulations:

(1) All junk stored or kept in such yards shall be so kept that it will not catch and hold water in which mosquitoes may breed and so that it will not constitute a place, or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(2) All such junkyards shall be enclosed within close fitting plank or metal solid fences touching the ground on the bottom and being not less than six (6) feet in height, such fence to be built so that it will be impossible for stray cats and/or stray dogs to have access to such junkyards.

(3) Such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety. (1993 Code, § 13-101)

¹Municipal code references

Animal control: title 10.

Toilet facilities in beer places: § 8-213(12).

²State law reference

The provisions of this section were taken substantially from the Bristol ordinance upheld by the Tennessee Court of Appeals as being a reasonable and valid exercise of the police power in the case of Hagaman v. Slaughter, 49 Tenn. App. 338, 354 S.W.2d 818 (1961).

CHAPTER 2

INOPERABLE CARS

SECTION

- 13-201. Declaration of purpose.
- 13-202. Storage on private property restricted.
- 13-203. Removal required.
- 13-204. Notice to remove.
- 13-205. Refusal to remove.
- 13-206. Removal by city.
- 13-207. Entry to remove; removal by owner.

13-201. Declaration of purpose. In enacting this chapter, the board of commissioners finds and declares that the accumulation and storage of abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicles, on private property, which motor vehicles are in the nature of rubbish and unsightly debris, violates, in many instance detrimental to the health, safety, and welfare of the community in that such conditions tend to interfere with the enjoyment of and reduce the value of private property; invite plundering, create fire hazards and other safety and health hazards to minors as well as adults, interfere with the comfort and well being of the public and create, extend, and aggravate urban blight, and that the public health, safety, and general welfare require that such conditions be regulated, abated, and prohibited. (1993 Code, § 13-201)

13-202. Storage on private property restricted. It shall be unlawful to park, store, or leave, or to permit the parking or storing of any licensed or unlicensed motor vehicle of any kind, for a period in excess of 30 days, when such vehicle is in a rusted, wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the city unless the same is completely enclosed within a building or unless it is in connection with a business enterprise operated in a lawful place and manner and licensed as such, when necessary to the operation of such business enterprise. (1993 Code, § 13-202)

13-203. Removal required. The accumulation and storage of one or more such motor vehicle in violation of the provisions of this chapter shall constitute rubbish and debris and a nuisance detrimental to the health, safety, and general welfare of the inhabitants of the city. It shall be the duty of the registered owner of such motor vehicle and it shall also be the duty of the person in charge or control of the private property upon which such motor vehicle is

located, whether as owner, tenant, occupant, lessee, or otherwise, to remove the same to a place of lawful storage, or to have the motor vehicle housed within a building or behind a sight obscuring screen to the public. (1993 Code, § 13-203)

13-204. Notice to remove. Whenever there is reasonable grounds to believe that a violation of the provisions of this chapter exists, the city manager shall give, or cause to be given, written notice to the registered owner of any motor vehicle which is in violation of this chapter, or shall give such notice to the owner or person in lawful possession or control of the private property upon which such motor vehicle is located, or shall give such notice to both the registered owner and to the owner or person in lawful possession or control of such private property that said motor vehicle violates the provisions of this chapter, and demand that said motor vehicle be removed to a place of lawful storage within 30 days, or that within 30 days, the same be housed in a building where it will not be visible or behind sight obscuring screen to the public. Service of such notice shall be by mail duly posted, return receipt required. (1993 Code, § 13-204)

13-205. Refusal to remove. Any person who fails, neglects, or refuses to remove the abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle or house the same and abate said nuisance in accordance with the notice as provided herein, shall be in violation of the provisions of this chapter and any person found to be in violation of this chapter shall be guilty of a misdemeanor and subject to a fine of not less than five dollars (\$5.00) nor more than fifty dollars (\$50.00) upon conviction of said offense in the City of Rockford Municipal Court. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (1993 Code, § 13-205)

13-206. Removal by city. In addition to and not in lieu of any other procedure prescribed in this chapter or in this code for removal of abandoned motor vehicles from private property, if the registered owner of any motor vehicle which is in violation of this chapter or the owner or person in lawful possession or control of the private property upon which the same is located shall fail, neglect, or refuse to remove or house such abandoned, wrecked, junked, partially dismantled, or inoperative motor vehicle in accordance with the notice given pursuant to the provisions of this chapter, the city manager may remove and dispose of such motor vehicle in the manner provided for by Tennessee Code Annotated, chapter 16 of title 55, particularly §§ 55-16-103, 55-16-104, and 55-16-106. He may therefore maintain an action in the name of the city, in the appropriate court, against any person or persons upon whom notice was served as required by this chapter to recover the costs of removing

and disposing of such motor vehicle in the event the proceeds of any sale thereof shall be insufficient to recover such costs. (1993 Code, § 13-206)

13-207. Entry to remove; removal by owner. The city manager, code enforcement officer, chief of police, any regularly employed and salaried officer of the police department of the city, contracting agents, and authorized officers, employees, and agents of the City of Rockford and each of them, are hereby expressly authorized to enter upon private property for the purpose of enforcing the provisions of this chapter. It shall be unlawful for any person to interfere with, hinder, or refuse to allow them to enter upon private property for such purpose and to remove any motor vehicle in accordance with the provision of this chapter. Any person to whom notice was given pursuant to this chapter shall have the right to remove or house such motor vehicle in accordance with said notice at his own expense at any time prior to the arrival of the city manager, codes enforcement officer or his authorized representatives for the purpose of removal. (1993 Code, § 13-207)

CHAPTER 3

SLUM CLEARANCE¹

SECTION

- 13-301. Findings of board.
- 13-302. Definitions.
- 13-303. "Public officer" designated; powers.
- 13-304. Initiation of proceedings; hearings.
- 13-305. Orders to owners of unfit structures.
- 13-306. When public officer may repair, etc.
- 13-307. When public officer may remove or demolish.
- 13-308. Lien for expenses; sale of salvage materials, other powers not limited.
- 13-309. Basis for a finding of unfitness.
- 13-310. Service of complaints or orders.
- 13-311. Enjoining enforcement of order.
- 13-312. Additional powers of public officer.
- 13-313. Powers conferred are supplemental.
- 13-314. Structures unfit for human habitation deemed unlawful.

13-301. Findings of board. Pursuant to Tennessee Code Annotated, § 13-21-101 *et seq.*, the board of commissioners finds that there exists in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety and morals, or otherwise inimical to the welfare of the residents of the city. (1993 Code, § 13-301)

13-302. Definitions. (1) "Dwelling" means any building or structure, or part thereof, used and occupied for human occupation or use or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

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

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

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

¹State law reference

Tennessee Code Annotated, title 13, chapter 21.

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

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

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

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

(9) "Structure" means any dwelling or place of public accommodation or vacant building or structure suitable as a dwelling or place of public accommodation. (1993 Code, § 13-302, modified)

13-303. "Public officer" designated; powers. There is hereby designated and appointed a "public officer," to be the city manager and/or city building inspector, to exercise the powers prescribed by this chapter, which powers shall be supplemental to all others held by the police chief. (1993 Code, § 13-303, modified)

13-304. Initiation of proceedings; hearings. Whenever a petition is filed with the public officer by a public authority or by at least five (5) residents of the city charging that any structure is unfit for human occupancy or use, or whenever it appears to the public officer (on his own motion) that any structure is unfit for human occupation or use, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of, and parties in interest of, such structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the service of the complaint; and the owner and parties in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint; and the rules of evidence prevailing in court of law or equity shall not be controlling in hearings before the public officer. (1993 Code, § 13-304)

13-305. 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 occupancy or use, he shall state in writing his finding of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order: (1) if the repair, alteration or improvement of the structure can be made at a reasonable cost in relation to the value of the structure (not exceeding fifty percent [50%] of the reasonable value), requiring the owner, during the time specified in the order, to repair, alter, or improve such structure to render it fit for human occupancy or use or to vacate and close the structure for human occupancy 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. (1993 Code, § 13-305)

13-306. 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 occupancy or use; the use or occupation of this building for human occupancy or use is prohibited and unlawful." (1993 Code, § 13-306)

13-307. 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. (1993 Code, § 13-307)

13-308. 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 shall, upon the filing of the notice with the office of the register of deeds of Blount county, be a lien on the property in favor of the municipality, second only to liens of the state, county and municipality for taxes, any lien of the municipality for special assessments, and any valid lien, right, or interest in such property duly recorded or duly perfected by filing, prior to the filing of such notice. These costs shall be collected by the county trustee at the same time and in the same manner as property taxes are collected. If the owner fails to pay the costs, they may be collected at the same time and in the same manner as delinquent property taxes are collected and shall be subject to the same penalty

and interest as delinquent property taxes. In addition, the municipality may collect the costs assessed against the owner through an action for debt filed in any court of competent jurisdiction. The municipality may bring one (1) action for debt against more than one or all of the owners of properties against whom said costs have been assessed and the fact that multiple owners have been joined in one (1) action shall not be considered by the court as a misjoinder of parties. If the structure is removed or demolished by the public officer, he shall sell the materials of such structure and shall credit the proceeds of such sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the chancery court of Blount 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 provided, however, that nothing in this section shall be construed to impair or limit in any way the power of the City of Rockford to define and declare nuisances and to cause their removal or abatement, by summary proceedings or otherwise. (1993 Code, § 13-308)

13-309. Basis for a finding of unfitness. The public officer defined herein shall have the power and may determine that a structure is unfit for human occupation and use if he finds that conditions exist in such structure which are dangerous or injurious to the health, safety or morals of the occupants or users of such structure, the occupants or users of neighboring structures or other residents of the City of Rockford; 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; and uncleanliness. (1993 Code, § 13-309)

13-310. 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 person is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect, then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two (2) consecutive weeks in a newspaper printed and published in the city. In addition, a copy of such complaint or order shall be posted in a conspicuous place on the 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 Blount County, Tennessee, and such filing shall have the same force and effect as other lis pendens notices provided by law. (1993 Code, § 13-310)

13-311. Enjoining enforcement of order. Any person affected by an order issued by the public officer served pursuant to this chapter may file a suit 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 suit 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. (1993 Code, § 13-311)

13-312. Additional powers of public officer. The public officer, in order to carry out and effectuate the purposes and provisions of this chapter, shall have the following powers in addition to those otherwise granted herein:

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

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

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

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

(5) To delegate any of his functions and powers under this chapter to such officers and agents as he may designate. (1993 Code, § 13-312)

13-313. Powers conferred are supplemental. This chapter shall not be construed to abrogate or impair the powers of the city with regard to the enforcement of the provisions of its charter or any other ordinances or regulations, nor to prevent or punish violations thereof, and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by the charter and other laws. (1993 Code, § 13-313)

13-314. Structures unfit for human habitation deemed unlawful. It shall be unlawful for any owner of record to create, maintain or permit to be maintained in the city structures which are unfit for human occupation due to dilapidation, defects increasing the hazards of fire, accident or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or unsanitary, or dangerous or detrimental to

the health, safety and morals, or otherwise inimical to the welfare of the residents of the city.

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

CHAPTER 4

MISCELLANEOUS

SECTION

13-401. Overgrown and dirty lots.

13-402. Health and sanitation nuisances.

13-403. Political campaign signs.

13-401. Overgrown and dirty lots. It shall be unlawful for any person to permit any premises owned, occupied or controlled by him 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. (1993 Code, § 13-401, as replaced by Ord. #05-15-03, June 2003)

13-402. Health and sanitation nuisances. It shall be unlawful for any person to permit any premises owned, occupied, or controlled by him to become or remain in a filthy condition, or permit the use or occupation of same in such a manner as to create noxious or offensive smells and odors in connection therewith, or to allow the accumulation or creation of unwholesome and offensive matter or the breeding of flies, rodents, or other vermin on the premises to the menace of the public health or the annoyance of people residing within the vicinity. (1993 Code, § 13-402)

13-403. Political campaign signs. Any temporary sign used in connection with a political or civic noncommercial campaign. Any political campaign sign being erected within a single-family or multi-family zoned area of the corporate limits of the City of Rockford may not exceed a size of thirty-six (36) square feet. All other zoned areas may have erected signs not to exceed two hundred fifty-six (256) square feet. All such signs shall be removed by the candidate or sponsoring organization members within seven (7) days after the announced results of that nomination, election or referendum. (as added by Ord. #110807, Dec. 2007)

TITLE 14

ZONING AND LAND USE CONTROL

CHAPTER

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. ZONING BOARD OF APPEALS.
4. FLOOD DAMAGE PREVENTION ORDINANCE.

CHAPTER 1

MUNICIPAL PLANNING COMMISSION

SECTION

- 14-101. Creation of planning commission.
- 14-102. Membership.
- 14-103. Terms.
- 14-104. Vacancies.
- 14-105. Organization of the planning commission.
- 14-106. Powers of the planning commission.

14-101. Creation of planning commission. Pursuant to the applicable provisions of Tennessee Code Annotated, § 13-4-101, the Rockford Municipal Planning Commission is hereby established, and is hereinafter referred to as the planning commission. (1993 Code, § 14-101)

14-102. Membership. The planning commission shall consist of five (5) members. One (1) of the members shall be the mayor, or a person designated by the mayor, to serve in his seat; and one (1) of the members shall be a member of the board of commissioners selected by that body. All other members shall be appointed by the mayor. (1993 Code, § 14-102)

14-103. Terms. The terms of the appointed members shall be three (3) years; except that, the terms of the first three (3) persons appointed shall be three (3), two (2), and one (1) year so that subsequent appointive seats will be arranged so that the term of at least one (1) member expires each year. The mayor, or his designee, and the member from the board of commissioners shall serve terms on the planning commission coterminous with their terms as mayor and a member of the board of commissioners. (1993 Code, § 14-103)

14-104. Vacancies. Any vacancy in an appointed membership shall be filled for the unexpired term by the mayor. The mayor shall also have the authority to remove any appointed member at his pleasure. (1993 Code, § 14-104)

14-105. Organization of the planning commission. The commission shall adopt by-laws and other policies and procedures as it sees fit for the purpose of carrying on its business in an efficient manner. The commission shall have at least a chairman which shall be elected by the commission from the appointed membership. (1993 Code, § 14-105)

14-106. Powers of the planning commission. From and after the time the planning commission shall have organized, selected officers, and adopted by-laws; then shall the commission have all the powers, duties, and responsibilities, as set forth in Tennessee Code Annotated, title 13. (1993 Code, § 14-106)

CHAPTER 2

ZONING ORDINANCE

SECTION

14-201. Land use to be governed by zoning ordinance.

14-201. Land use to be governed by zoning ordinance. Land use within the City of Rockford shall be governed by the Rockford Zoning Ordinance and any amendments thereto.¹ (1993 Code, § 14-201, modified)

¹The zoning ordinance, and any amendments thereto, are published as separate documents and are of record in the office of the city recorder.

CHAPTER 3

ZONING BOARD OF APPEALS

SECTION

- 14-301. Zoning board of appeals established.
- 14-302. Meetings of the zoning board of appeals.
- 14-303. Rules for zoning board of appeals proceedings.
- 14-304. Record of zoning board of appeals proceedings.
- 14-305. Powers and duties of zoning board of appeals.
- 14-306. Relationship of zoning board of appeals to functional branches of government.

14-301. Zoning board of appeals established. A zoning board of appeals is hereby established, consisting of five (5) members appointed by the city board, at least one member of which shall be a member of the planning commission. One member shall be appointed for a period of one year, one for two years, one for three years, one for four years, and one for five years; thereafter, as the terms herein fixed expire they shall be appointed for terms of five years. Any vacancies occurring shall be filled by appointment for the unexpired term by the city board. (1993 Code, § 14-301)

14-302. Meetings of zoning board of appeals. All meetings of the zoning board of appeals shall be open to the public.

Regular meetings shall be held once each month; however, when no business has been filed with the recorder for zoning board of appeals action, the regular monthly meeting may be waived by the chairman upon due notice to board members, provided that at least one regular meeting must be held during each calendar quarter. Special meetings may be called by the chairman provided he gives reasonable notice to each member, specifying the business to be considered at the special meeting. The zoning board of appeals may adjourn a meeting at any time to another time and place. (1993 Code, § 14-302)

14-303. Rules for zoning board of appeals proceedings. The zoning board of appeals shall adopt rules necessary to the conduct of its affairs in keeping with the provisions of this code and of other applicable law. The attendance of at least a majority of the members shall be required to constitute a quorum for the purpose of transacting business. Matters before the zoning board of appeals shall be decided by a majority of the members present. Any member present but not voting shall be deemed to have cast a "nay" vote on any issue to grant a permit, special exception, variance, and the like. (1993 Code, § 14-303)

14-304. Record of zoning board of appeals proceedings. The recorder shall make and keep a public record of zoning board of appeals proceedings, which shall contain at least the following: the date of each meeting; the names of board members present and absent, including times of late arrivals and early departures; the names of members introducing and seconding motions and other action; a copy of each motion, resolution, or other action presented; the vote of each member thereon; and the provisions of each order, permit, exception, variance, or other action taken by the board. (1993 Code, § 14-304)

14-305. Powers and duties of zoning board of appeals. The zoning board of appeals shall have original or appellate jurisdiction of administrative matters of the city, as follows:

(1) Licenses, permits, and the like for which applicants must show moral reputation, business responsibility, and other qualifications where given original jurisdiction by this code;

(2) Special exceptions, variances, and the like authorized by the building, utility, housing, zoning, and other provisions of this code;

(3) Administrative review as authorized by this code where it is alleged there is error in any order, requirement, decision, or determination by the city manager, the heads of departments, the zoning officer, the planning commission, or other agents of the city in their administration and enforcement of this code. (1993 Code, § 14-305)

14-306. Relationship of zoning board of appeals to functional branches of government. It is the intent of this code that all questions of interpretation and enforcement shall be first presented to the city manager (or to the recorder, or appropriate division chief as agents of the city manager), that such questions be presented to the zoning board of appeals on appeal from the decision of the city manager, and that recourse from the decisions of the zoning board of appeals shall be to the courts. It is further the intent of this code that the city board shall have only the duties of considering and adopting or rejecting proposed ordinances and of establishing fees and charges, i.e. legislative functions, and shall not hear and decide questions of interpretation and enforcement that may arise, i.e. administrative and judicial functions. (1993 Code, § 14-306)

CHAPTER 4

FLOOD DAMAGE PREVENTION ORDINANCE

SECTION

14-401. Statutory authorization, findings of fact, purpose and objectives.

14-402. Definitions.

14-403. General provisions.

14-404. Administration.

14-405. Provisions for flood hazard reduction.

14-406. Variance procedures.

14-407. Legal status provisions.

14-401. Statutory authorization, findings of fact, purpose and objectives. (1) Statutory authorization. The Legislature of the State of Tennessee has in Tennessee Code Annotated, § 6-19-101 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Rockford City Commission does ordain as follows:

(2) Findings of fact. (a) The Rockford City Commission wishes to maintain eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 60.3 of the Federal Insurance Administration Regulations found at 44 CFR ch. 1 (10-1-04 edition).

(b) Areas of Rockford are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(c) Flood losses are caused by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities; by uses in flood hazard areas which are vulnerable to floods; or construction which is inadequately elevated, floodproofed, or otherwise unprotected from flood damages.

(3) Statement of purpose. It is the purpose of this ordinance to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas. This ordinance is designed to:

(a) Restrict or prohibit uses which are vulnerable to water or erosion hazards, or which result in damaging increases in erosion, flood heights, or velocities;

(b) Require that uses vulnerable to floods, including community facilities, be protected against flood damage at the time of initial construction;

(c) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation floodwaters;

(d) Control filling, grading, dredging and other development which may increase flood damage or erosion; and

(e) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(4) **Objectives.** The objectives of this ordinance are:

(a) To protect human life, health and property;

(b) To minimize expenditure of public funds for costly flood control projects;

(c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(d) To minimize prolonged business interruptions;

(e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodable areas;

(f) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize blight in flood areas;

(g) To ensure that potential homebuyers are notified that property is in a floodable area; and

(h) To maintain eligibility for participation in the National Flood Insurance Program. (as added by Ord. #071207, Aug. 2007)

14-402. Definitions. Unless specifically defined below, words or phrases used in this ordinance shall be interpreted as to give them the meaning they have in common usage and to give this ordinance its most reasonable application given its stated purpose and objectives.

(1) "Accessory structure" shall represent a subordinate structure to the principal structure and, for the purpose of this section, shall conform to the following:

(a) Accessory structures shall not be used for human habitation;

(b) Accessory structures shall be designed to have low flood damage potential;

(c) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(d) Accessory structures shall be firmly anchored to prevent flotation which may result in damage to other structures;

(e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed.

(2) "Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 USC 4001-4128.

(3) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction."

(4) "Appeal" means a request for a review of the local enforcement officer's interpretation of any provision of this ordinance or a request for a variance.

(5) "Area of shallow flooding" means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (1' – 3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. (Such flooding is characterized by ponding or sheet flow.)

(6) "Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

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

(8) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

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

(10) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

(11) "Building" means any structure built for support, shelter, or enclosure for any occupancy or storage (see "structure").

(12) "Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other

structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of equipment or materials.

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

(14) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with section 1336 of the Act. It is intended as a program to provide a first layer amount of insurance on all insurable structures before the effective date of the initial FIRM.

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

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

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

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

(19) "Existing structures" see "existing construction."

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

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

(a) The overflow of inland or tidal waters;

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

(22) "Flood elevation determination" means a determination by the administrator of the water surface elevations of the base flood, that is, the flood

level that has a one percent (1%) or greater chance of occurrence in any given year.

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

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

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

(26) "Flood insurance study" is the official report provided by the Federal Emergency Management Agency, evaluating flood hazards and containing flood profiles and water surface elevation of the base flood.

(27) "Floodplain" or "flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "flooding").

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

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

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

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

(32) "Flood-related erosion area" or "flood-related erosion prone area" means a land area adjoining the shore of a lake or other body of water, which

due to the composition of the shoreline or bank and high water levels or wind-driven currents, is likely to suffer flood-related erosion damage.

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

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

(35) "Floor" means the top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

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

(37) "Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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

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

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

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

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

(d) Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

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

(ii) Directly by the Secretary of the Interior.

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

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

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

(43) "Manufactured home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle," unless such transportable structures are placed on a site for one hundred eighty (180) consecutive days or longer.

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

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

(46) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

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

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

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

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

(51) "100-year flood" see "base flood."

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

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

(a) Built on a single chassis;

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

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

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

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

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

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

(57) "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; and includes the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a

basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(58) "State coordinating agency." The Tennessee Department of Economic and Community Development's Local Planning Assistance Office as designated by the Governor of the State of Tennessee at the request of the administrator to assist in the implementation of the national flood insurance program for the state.

(59) "Structure." For purposes of this section, means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank, or other man-made facilities or infrastructures.

(60) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

(61) "Substantial improvement" means

(a) Any repairs, reconstructions, rehabilitations, additions, alterations or other improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. The market value of the structure should be:

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

(ii) In the case of damage, the value of the structure prior to the damage occurring. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed.

(b) For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

(i) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been pre-identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions and not solely triggered by an improvement or repair project; or

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

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

(63) "Variance" is a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

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

(65) "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas. (as added by Ord. #071207, Aug. 2007)

14-403. General provisions. (1) Application. This ordinance shall apply to all areas within the incorporated area of Rockford, Tennessee.

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Flood Insurance Study, Blount County, Tennessee, and Incorporated Areas, Federal Emergency Management Study, Flood Insurance Study Number 47009CV000A and Blount County Flood Insurance Rate Maps (FIRMs), Community Panel Numbers 47009C0130C, 47009C0129C, 47009C0133C, 47009C0141C, and 47009C0137C dated September 19, 2007, along with all supporting technical data, are adopted by reference and declared to be a part of this ordinance.

(3) Requirement for development permit. A development permit shall be required in conformity with this ordinance prior to the commencement of any development activities.

(4) Compliance. No land, structure or use shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

(5) Abrogation and greater restrictions. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance conflicts or overlaps with another regulatory instrument, whichever imposes the more stringent restrictions shall prevail.

(6) Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under Tennessee statutes.

(7) Warning and disclaimer of liability. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Rockford, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance, shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Rockford, Tennessee from taking such other lawful actions to prevent or remedy any violation. (as added by Ord. #071207, Aug. 2007)

14-404. Administration. (1) Designation of ordinance administrator. The building inspector is hereby appointed as the administrator to implement the provisions of this ordinance.

(2) Permit procedures. Application for a development permit shall be made to the administrator on forms furnished by the community prior to any development activities. The development permit may include, but is not limited to the following: plans in duplicate drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(ii) Elevation in relation to mean sea level to which any non-residential building will be floodproofed where BFEs are available, or to the highest adjacent grade when applicable under this ordinance.

(iii) Design certificate from a registered professional engineer or architect that the proposed non-residential

floodproofed building will meet the floodproofing criteria in § 14-404(2).

(iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(b) Construction stage. Within unnumbered A Zones, where flood elevation data are not available, the administrator shall record the elevation of the lowest floor on the development permit. The elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing. Within unnumbered A Zones, where flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade.

Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a registered land surveyor and certified by same. When floodproofing is utilized for a non-residential building said certification shall be prepared by or under the direct supervision of, a professional engineer or architect and certified by same.

Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The administrator shall review the above-referenced certification data. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being allowed to proceed. Failure to submit the certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(3) Duties and responsibilities of the administrator. Duties of the administrator shall include, but not be limited to:

(a) Review of all development permits to assure that the permit requirements of this ordinance have been satisfied, and that proposed building sites will be reasonably safe from flooding.

(b) Advice to permittee that additional federal or state permits may be required, and if specific federal or state permit requirements are known, require that copies of such permits be provided and maintained on file with the development permit. This shall include section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(c) Notification to adjacent communities and the Tennessee Department of Economic and Community Development, Local Planning Assistance Office, prior to any alteration or relocation of a watercourse, and submission of evidence of such notification to the Federal Emergency Management Agency.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to the Federal Emergency Management Agency to ensure accuracy of community flood maps through the letter of map revision process. Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(e) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable of the lowest floor including basement of all new or substantially improved buildings, in accordance with § 14-404(2).

(f) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new or substantially improved buildings have been floodproofed, in accordance with § 14-404(2).

(g) When floodproofing is utilized for a structure, the administrator shall obtain certification of design criteria from a registered professional engineer or architect, in accordance with § 14-404(2).

(h) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this ordinance.

(i) When base flood elevation data or floodway data have not been provided by the Federal Emergency Management Agency then the administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the community FIRM meet the requirements of this ordinance.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-402 of this ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-404(2).

(j) All records pertaining to the provisions of this ordinance shall be maintained in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this

ordinance shall be maintained in a separate file or marked for expedited retrieval within combined files. (as added by Ord. #071207, Aug. 2007)

14-405. Provisions for flood hazard reduction. (1) General standards. In all flood-prone areas the following provisions are required:

(a) New construction and substantial improvements to existing buildings shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(b) Manufactured homes shall be elevated and anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(c) New construction and substantial improvements to existing buildings shall be constructed with materials and utility equipment resistant to flood damage;

(d) New construction or substantial improvements to existing buildings shall be constructed by methods and practices that minimize flood damage;

(e) All electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

(f) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

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

(h) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(i) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance; and

(j) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provision of this ordinance, shall be undertaken only if said nonconformity is not further extended or replaced.

(2) Specific standards. These provisions shall apply to all areas of special flood hazard as provided herein:

(a) Residential construction. Where base flood elevation data is available, new construction or substantial improvement of any

residential building (or manufactured home) shall have the lowest floor, including basement, elevated no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls and to ensure unimpeded movement of floodwater shall be provided in accordance with the standards of § 14-405(2).

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-402 of this ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-404(2).

(b) Non-residential construction. New construction or substantial improvement of any commercial, industrial, or non-residential building, when BFE data is available, shall have the lowest floor, including basement, elevated or floodproofed no lower than one foot (1') above the level of the base flood elevation.

Within unnumbered A Zones, where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (lowest floor and highest adjacent grade being defined in § 14-402 of this ordinance). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-404(2).

Buildings located in all A Zones may be floodproofed, in lieu of being elevated, provided that all areas of the building below the required elevation are watertight, with walls substantially impermeable to the passage of water, and are built with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the administrator as set forth in § 14-404(2).

(c) Elevated building. All new construction or substantial improvements to existing buildings that include any fully enclosed areas formed by foundation and other exterior walls below the base flood elevation, or required height above the highest adjacent grade, shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

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

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

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

(C) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.

(ii) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the elevated living area (stairway or elevator); and

(iii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of § 14-405(2) of this ordinance.

(d) Standards for manufactured homes and recreational vehicles. (i) All manufactured homes placed, or substantially improved on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction, including elevations and anchoring.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) When base flood elevations are available the lowest floor of the manufactured home is elevated on a permanent foundation no lower than one foot (1') above the level of the base flood elevation; or

(B) Absent base flood elevations the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements) at least three feet (3') in height above the highest adjacent grade.

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood or that has

substantially improved, must meet the standards of § 14-405(2)(d) of this ordinance.

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed on identified flood hazard sites must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions.

(C) The recreational vehicle must meet all the requirements for new construction, including the anchoring and elevation requirements of this section above if on the site for longer than one hundred eighty (180) consecutive days.

(e) Standards for subdivisions. (i) Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to ensure that:

(A) All subdivision proposals shall be consistent with the need to minimize flood damage;

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage;

(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards;

(D) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including manufactured home parks and subdivisions) that are greater than fifty (50) lots and/or five (5) acres in area.

(3) Standards for areas of special flood hazard with established base flood elevations and with floodways designated. Located within the areas of special flood hazard established in § 14-403(2) are areas designated as floodways. A floodway may be an extremely hazardous area due to the velocity of floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without

increased flood heights and velocities. Therefore, the following provisions shall apply:

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

(b) New construction or substantial improvements of buildings shall comply with all applicable flood hazard reduction provisions of § 14-405.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the areas of special flood hazard established in § 14-403(2), where streams exist with base flood data provided but where no floodways have been designated, (Zones AE) the following provisions apply:

(a) No encroachments, including fill material, new structures or substantial improvements shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-405(2).

(5) Standards for streams without established base flood elevations or floodways (A Zones). Located within the areas of special flood hazard established in § 14-403, where streams exist but no base flood data has been provided (A Zones), or where a floodway has not been delineated, the following provisions shall apply:

(a) When base flood elevation data or floodway data have not been provided in accordance with § 14-403, then the administrator shall obtain, review and reasonably utilize any scientific or historic base flood elevation and floodway data available from a federal, state or other source, in order to administer the provisions of § 14-405. Only if data is

not available from these sources, then the following provisions ((b) and (c)) shall apply:

(b) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet (20'), whichever is greater, measured from the top of the stream bank, unless certification by registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(c) In special flood hazard areas without base flood elevation data, new construction or substantial improvements of existing shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three feet (3') above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of § 14-405(2), and "Elevated Buildings."

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the areas of special flood hazard established in § 14-403(2) are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1' – 3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

(a) All new construction and substantial improvements of residential and non-residential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above the flood depth number specified on the Flood Insurance Rate Map (FIRM), in feet, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated, at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of § 14-405(2), and "Elevated Buildings."

(b) All new construction and substantial improvements of non-residential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the specified FIRM flood level, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified, the lowest floor, including basement, shall be floodproofed to at least three feet (3') above the highest adjacent grade. A registered

professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this ordinance and shall provide such certification to the administrator as set forth above and as required in § 14-404(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(d) The administrator shall certify the elevation or the highest adjacent grade, where applicable, and the record shall become a permanent part of the permit file.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-403 are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations and flood hazard factors have not been determined. Within these areas (A-99 Zones) all provisions of §§ 14-404 and 14-405(1) shall apply.

(8) Standards for unmapped streams. Located within Rockford, Tennessee are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams the following provisions shall apply:

(a) In areas adjacent to such unmapped streams, no encroachments including fill material or structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the locality.

(b) When new elevation data is available, new construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with § 14-404. (as added by Ord. #071207, Aug. 2007)

14-406. Variance procedures. (1) Board of floodplain review.

(a) Creation and appointment. The Rockford Board of Zoning Appeals shall be established as the board of floodplain review. The term of membership shall be four (4) years except that the initial individual appointments to the board of floodplain review shall be terms of one (1), two (2), and three (3) years respectively. Vacancies shall be filled for any unexpired term by the chief executive officer.

(b) Procedure. Meetings of the board of floodplain review shall be held at such times, as the board shall determine. All meetings of the board of floodplain review shall be open to the public. The board of

floodplain review shall adopt rules of procedure and shall keep records of applications and actions thereon, which shall be a public record. Compensation of the members of the board of floodplain review shall be set by the legislative body.

(c) Appeals: how taken. An appeal to the board of floodplain review may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the board of floodplain review a notice of appeal, specifying the ground thereof in all cases where an appeal is made by a property owner or other interested party, a fee for the cost of publishing a notice of such hearing shall be paid by the appellant. The administrator shall transmit to the board of floodplain review all papers constituting the record upon which the appeal action was taken. The board of floodplain review shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The board of floodplain review shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirements, permit, decision, determination, or refusal made by the administrator or other administrative official in the carrying out or enforcement of any provisions of this ordinance.

(ii) Variance procedures. In the case of a request for a variance the following shall apply:

(A) The Rockford Board of Floodplain Review shall hear and decide appeals and requests for variances from the requirements of this ordinance.

(B) Variances may be issued for the repair or rehabilitation of historic structures (see definition) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.

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

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

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

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

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

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

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

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

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

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

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

(D) Upon consideration of the factors listed above, and the purposes of this ordinance, the board of floodplain review may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this ordinance.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard; and in the instance of a historical building, a determination that the variance is the minimum relief necessary so as not to destroy the historic character and design of the building.

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud

on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance, and that such construction below the base flood level increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request. (as added by Ord. #071207, Aug. 2007)

14-407. Legal status provisions. (1) Conflict with other ordinances. In case of conflict between this ordinance or any part thereof, and the whole or part of any existing or future ordinance of Rockford, Tennessee, the most restrictive shall in all cases apply.

(2) Validity. If any section, clause, provision, or portion of this ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision, or portion of this ordinance which is not of itself invalid or unconstitutional.

(3) Effective date. This ordinance shall become effective fifteen (15) days after its 1st passage, in accordance with the Charter of Rockford, Tennessee, and the public welfare demanding it. (as added by Ord. #071207, Aug. 2007)

TITLE 15

MOTOR VEHICLES, TRAFFIC AND PARKING

CHAPTER

1. SPEED LIMITS.

CHAPTER 1

SPEED LIMITS

SECTION

15-101. In residential areas.

15-102. Violation.

15-101. In residential areas. It shall be unlawful for any person to operate or drive a motor vehicle of any nature or kind at a rate of speed in excess of twenty (20) miles per hour in all residential areas unless otherwise posted. (Ord. #___, Oct. 3, 1979)

15-102. Violation. Any person who shall violate any provisions of this chapter shall be guilty of a misdemeanor, punishable by a fine of not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00). (Ord. #___, Oct. 3, 1979)

TITLE 16

STREETS AND SIDEWALKS, ETC.¹

CHAPTER

1. DRIVEWAY CONNECTIONS.
2. DIVISION OF STREETS.

CHAPTER 1

DRIVEWAY CONNECTIONS

SECTION

- 16-101. All plans shall include plans for driveways.
- 16-102. Slope of driveways.
- 16-103. Pavement of driveways.

16-101. All plans shall include plans for driveways. All plans submitted to the building official for construction within the City of Rockford, both residential and commercial, shall include plans for the driveways to be constructed and used in conjunction with the proposed structure or structures. Said plans shall include the number of driveway cuts, the length and width of same, as well as the grade of the driveways. Adequate drainage tile shall be required, where needed, based upon the drainage area to be served. Said size shall be determined by the building official city engineer, and included upon the building permit.

16-102. Slope of driveways. No portion of a driveway slope shall exceed fifteen percent (15%) slope within the required set back area as determined by the zoning ordinance.

16-103. Pavement of driveways. All driveways shall be paved a distance of not less than 20 feet beginning at the edge of the existing road pavement and to extend at least 20 feet into the driveway, as soon as completion of the structure as weather permits, an under no circumstances more than six (6) months following completion.

¹Municipal code reference

Related motor vehicle and traffic regulations: title 15.

CHAPTER 2

DIVISION OF STREETS

SECTION

16-201. Street superintendent.

16-202. Division of streets.

16-201. Street superintendent. The chief of police is hereby designated as chief of the division of streets, referred to hereinafter as street superintendent, subject to such agreement as the city manager shall work out with the county. (1971 Code, § 1-502, modified)

16-202. Division of streets. The division of streets shall be composed of the street superintendent and such other members as he may appoint. The division of streets shall be responsible for the maintenance and improvement of the streets of the city, subject to this code, the intergovernmental agreement, and other applicable law. (1971 Code, § 1-510)

TITLE 17

REFUSE AND TRASH DISPOSAL¹

CHAPTER

1. REFUSE.

CHAPTER 1

REFUSE

SECTION

17-101. Refuse defined.

17-102. Throwing and dumping refuse.

17-103. Accumulation of refuse.

17-104. Violation.

17-101. Refuse defined. Refuse shall mean and include garbage, rubbish, leaves, brush, and refuse as those terms are generally defined except that dead animals and fowls, body wastes, hot ashes, rocks, concrete, bricks, and similar materials are expressly excluded therefrom and shall not be stored therewith.

17-102. Throwing and dumping refuse. It shall be unlawful for any person or business or company to intentionally throw, discard or dump within the City of Rockford, Tennessee any trash, garbage, paper, cans, bottles, empty containers, refuse of any kind, or any waste-type material, upon their own property or property belonging to another in the city or on any public street, road, highway or any other public area within the city when such trash, garbage, paper, cans, bottles, empty containers, refuse of any kind, or any waste-type material, is in the public view and can be seen from a public area within the City of Rockford. (Ord. #__, July 2, 1980)

17-103. Accumulation of refuse. It shall also be unlawful for any person, business or company to intentionally allow the collection or accumulation of any trash, garbage, paper, cans, bottles, empty containers, refuse of any kind, or any waste-type material, upon their own property within the City of Rockford, Tennessee when such trash, garbage, paper, cans, bottles, empty containers, refuse of any kind, or any waste-type material, is in the public view and can be seen from a public area within the City of Rockford. (Ord. #__, July 2, 1980)

¹Municipal code reference

Property maintenance regulations: title 13.

17-104. Violation. (1) Any person, business or company who shall violate any provision of this chapter shall be guilty of a misdemeanor, punishable by a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).

(2) After a citation is issued and served upon the party charged for violation of any provision of this chapter, each day after issuance and service that the provisions of this chapter are violated by said party shall constitute a separate offense and said party shall be guilty of an additional misdemeanor, punishable as herein provided. (Ord. #__, July 2, 1980)

TITLE 18

WATER AND SEWERS

CHAPTER

1. WASTEWATER DISPOSAL.

CHAPTER 1

WASTEWATER DISPOSAL

SECTION

18-101. Requirements for proper wastewater disposal.

18-102. Private domestic wastewater disposal.

18-103. Violations.

18-101. Requirements for proper wastewater disposal. (1) It is an offense for a person to unlawfully dispose of water carrying human waste, household or business waste, or to pipe or transmit raw sewage, wastewater, or the effluent from any septic tank except according to the provisions of this chapter.

(2) Except as herein provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, straight pipes, or other facility intended or used for the disposal of sewage.

(3) Except as provided in this chapter, the owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the service area in which there is now located or may in the future be located a public sanitary sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of that utility, or to have a proper private system installed according to this chapter.

(4) Where a public sanitary sewer is not available under the provisions of § 18-101(3) above, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter. (as added by Ord. #091108, Oct. 2008)

18-102. Private domestic wastewater disposal. (1) Availability.

(a) Where a public sanitary sewer is not available under the provisions of § 18-101(3) above, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.

(2) Requirements. (a) Before commencement of construction of a private sewage disposal system the owner shall first obtain written permission from the county health department. The owner shall supply

any plans, specifications, and other information as are deemed necessary by the city and the Blount County Health Department.

(b) A private sewage disposal system shall not be placed in operation until the installation is completed to the satisfaction of the city and the Blount County Health Department. They shall be allowed to inspect the work at any stage of construction and the owner shall notify the city and the Blount County Health Department when the work is ready for final inspection, before any underground portions are covered. The inspection shall be made within a reasonable period of time after the receipt of notice by the city and the Blount County Health Department.

(c) The type, capacity, location, and layout of a private sewage disposal system shall comply with all recommendations of the Tennessee Department of Environment and Conservation, the city and the Blount County Health Department. No straight pipe, septic tank or cesspool shall be permitted to discharge to waters of Tennessee, or to flow in manner which shall flow to the waters of Tennessee.

(d) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the city.

(e) No statement contained in this chapter shall be construed to interfere with any additional or future requirements that may be imposed by the city and the Blount County Health Department. (as added by Ord. #091108, Oct. 2008)

18-103. Violations. The penalty for violation of the ordinance comprising this chapter shall be fifty dollars (\$50.00) per incident with each day that the violation is allowed to continue constituting a separate offense. (as added by Ord. #091108, Oct. 2008)

TITLE 19

ELECTRICITY AND GAS

(RESERVED FOR FUTURE USE)

TITLE 20

MISCELLANEOUS

(RESERVED FOR FUTURE USE)

ORDINANCE NO. 429-03

AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE CITY OF ROCKFORD, TENNESSEE.

WHEREAS some of the ordinances of the City of Rockford are obsolete, and

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

WHEREAS the Board of Commissioners of the City of Rockford, 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 "Rockford Municipal Code," now, therefore:

BE IT ORDAINED BY THE CITY OF ROCKFORD, AS FOLLOWS:¹

Section 1. Ordinances codified. The ordinances 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 "Rockford Municipal Code," hereinafter referred to as the "Municipal Code."

Section 2. Ordinances repealed. All ordinances of a general, continuing, and permanent application or of a penal nature not contained in the municipal code are hereby repealed from and after the effective date of said code, except as hereinafter provided in Section 3 below.

Section 3. Ordinances saved from repeal. The repeal provided for in Section 2 of this ordinance shall not affect: Any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of the municipal code; any ordinance or resolution promising or requiring the payment of money by or to the city or authorizing the issuance of any bonds or other evidence of said city's indebtedness; any budget ordinance; any contract or obligation assumed by or

¹Charter reference

Tennessee Code Annotated, § 6-20-214.

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

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

Section 5. Penalty clause. Unless otherwise specified, wherever in the municipal code, including the codes and ordinances adopted by reference, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or wherever in the municipal code the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision of the municipal code shall be punishable by a penalty of not more than fifty dollars (\$50.00) and costs for each separate violation; provided, however, that the imposition of a penalty under the provisions of this section 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.

When any person is fined for violating any provision of the municipal code and such person defaults on payment of such penalty, he may be required to perform hard labor, within or without the workhouse, to the extent that his physical condition shall permit, until such penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.¹

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

¹State law reference

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

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

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


Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading April 29, 2003

Passed 2nd reading May 8, 2003



Mayor



Recorder