

**THE
TOWN OF UNICOI
MUNICIPAL
CODE**

Prepared by the



Municipal Technical Advisory Service
In cooperation with the Tennessee Municipal League

September 2020

TOWN OF UNICOI, TENNESSEE

MAYOR

Kathryn Bullen

VICE MAYOR

Roger Cooper

ALDERMEN

Debbie Bennett
Wanda Radford
Judy Ray

RECORDER

Deborah B. Kessler

TOWN ATTORNEY

Lois Shults-Davis

PREFACE

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

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

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

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

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

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

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

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

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

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

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

TABLE OF CONTENTS

PAGE

INTRODUCTION

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

CHARTER

CHARTER TABLE OF CONTENTS.....	C-1
TEXT OF CHARTER.....	C-2

CODE OF ORDINANCES

CODE-ADOPTING ORDINANCE.....	ORD-1
TITLE 1. GENERAL ADMINISTRATION.....	1-1
CHAPTER	
1. BOARD OF MAYOR AND ALDERMEN	1-1
2. MISCELLANEOUS	1-3
3. CODE OF ETHICS.....	1-4
TITLE 2. BOARDS AND COMMISSIONS, ETC.	2-1
RESERVED FOR FUTURE USE	
TITLE 3. MUNICIPAL COURT.....	3-1
CHAPTER	
1. TOWN JUDGE.....	3-1
TITLE 4. MUNICIPAL PERSONNEL	4-1
CHAPTER	
1. TRAVEL REIMBURSEMENT REGULATIONS	4-1

	<u>PAGE</u>
TITLE 5. MUNICIPAL FINANCE AND TAXATION	5-1
CHAPTER	
1. MISCELLANEOUS	5-1
2. PURCHASING	5-2
TITLE 6. LAW ENFORCEMENT	6-1
CHAPTER	
1. POLICE DEPARTMENT	6-?
TITLE 7. FIRE PROTECTION AND FIREWORKS	7-1
RESERVED FOR FUTURE USE	
TITLE 8. ALCOHOLIC BEVERAGES	8-1
CHAPTER	
1. BEER	8-1
2. INTOXICATING LIQUORS	8-14
TITLE 9. BUSINESS, PEDDLERS, SOLICITORS, ETC.	9-1
CHAPTER	
1. MISCELLANEOUS	9-1
2. CHARITABLE SOLICITORS	9-2
3. CABLE TELEVISION	9-3
TITLE 10. ANIMAL CONTROL	10-1
CHAPTER	
1. BARKING AND AT-LARGE DOGS	10-1
TITLE 11. MUNICIPAL OFFENSES	11-1
CHAPTER	
1. LITTERING	11-1
TITLE 12. BUILDING, UTILITY, ETC. CODES	12-1
CHAPTER	
1. BUILDING CODE	12-1

	<u>PAGE</u>
TITLE 13. PROPERTY MAINTENANCE REGULATIONS	13-1
CHAPTER	
1. REBUILDING, REMOVAL OF BUILDINGS	13-1
2. PROTECTION AND PRESERVATION STANDARDS	13-3
TITLE 14. ZONING AND LAND USE CONTROL	14-1
CHAPTER	
1. MUNICIPAL PLANNING COMMISSION	14-1
2. ZONING ORDINANCE	14-5
3. BOARD OF ZONING APPEALS	14-6
4. MUNICIPAL FLOODPLAIN ZONING ORDINANCE	14-7
5. MOBILE HOME PARK REGULATIONS	14-30
6. BILLBOARDS	14-39
TITLE 15. MOTOR VEHICLES, TRAFFIC AND PARKING	15-1
CHAPTER	
1. SPEED LIMITS	15-1
2. MISCELLANEOUS	15-2
3. PARKING	15-3
TITLE 16. STREETS AND SIDEWALKS, ETC.	16-1
CHAPTER	
1. ROAD AND STREET REGULATIONS	16-1
TITLE 17. REFUSE AND TRASH DISPOSAL	17-1
RESERVED FOR FUTURE USE	
TITLE 18. WATER AND SEWERS	18-1
CHAPTER	
1. SEWER USE	18-1
2. UNDERGROUND UTILITY LINE SPECIFICATIONS	18-40
TITLE 19. ELECTRICITY AND GAS	19-1
RESERVED FOR FUTURE USE	

PAGE

TITLE 20. MISCELLANEOUS..... 20-1

RESERVED FOR FUTURE USE

CERTIFICATE OF AUTHENTICITY..... CERT-1

TITLE 1

GENERAL ADMINISTRATION¹

CHAPTER

1. BOARD OF MAYOR AND ALDERMEN.
2. MISCELLANEOUS.
3. CODE OF ETHICS.

CHAPTER 1

BOARD OF MAYOR AND ALDERMEN

SECTION

- 1-101. Elections.
- 1-102. Duties.
- 1-103. Salaries of the board of mayor and aldermen.
- 1-104. Special called meetings.

1-101. Elections. (1) Pursuant to Public Chapter 77 of the Public Acts of 1997 the Town of Unicoi hereby increases the number of aldermen from two (2) to four (4).

(2) There shall continue to be one (1) ward in the town.

(3) This section shall take effect at the next municipal election, but shall not affect the present terms of members of the board of mayor and aldermen.

(4) There shall be a transitional election following the adoption of the section in which the mayor and/or aldermen running for office shall be elected for terms that will expire at the next municipal election: being the election of 2000.

(5) At the 2000 election the mayor shall be elected for a term of four (4) years. The two (2) aldermen receiving the highest number of votes shall be

¹Charter references

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

Municipal code references

Utilities: titles 18.

Wastewater treatment: title 18.

Zoning: title 14.

elected to four (4) year terms; the third and fourth highest vote totals shall be elected to two (2) year terms. At the next election, all terms shall be for four (4) years. (2004 Code, § 1-101)

1-102. Duties. (1) The mayor shall supervise the day-to-day affairs of the town.

(2) The mayor shall perform the duties set forth in *Tennessee Code Annotated*, §§ 6-3-106(b) and 6-4-101. (2004 Code, § 1-102)

1-103. Salaries of the board of mayor and aldermen. (1) The mayor and aldermen shall be paid for the regular monthly board of mayor and aldermen meetings as budgeted in the budget ordinance regardless of the length of said meetings.

(2) Additional meetings of the board shall not be compensated unless said meetings extend for four (4) hours or more. (Ord. #2020-281, Jan. 2021)

1-104. Special called meetings. (1) Upon request of a citizen for a special called meeting of any the board of mayor and aldermen, the municipal planning commission and/or the board of zoning appeals or for a public hearing for rezoning or other purposes which requires advertising and/or posting of the proposed change, and upon approval of calling of such special meeting the party or entity requesting the special called meeting or public hearing shall pay the cost of attendance of the board member and/or commission members affected and the cost of advertising and posting public hearings for rezoning requests or other matters.

(2) The party or entity requesting the special called meeting shall not be required to pay costs of board and commission members attendance at regular meetings, but only for called meetings requested by the citizen or entity needing the special called meeting. (Ord. #2021-289, June 2021)

CHAPTER 2

MISCELLANEOUS

SECTION

1-201. Conduct at public meetings.

1-202. Copies of documents.

1-201. Conduct at public meetings. (1) No person shall commit on property of the Town of Unicoi or while participating in governmental functions of the Town of Unicoi at any location any act which, while not specifically prohibited by charter, ordinance or resolution of the Town of Unicoi, constitutes a misdemeanor under the statutes of the state or at common law and is punishable by state statute or common law by fine and/or imprisonment.

(2) The board of mayor and aldermen may enforce orderly conduct at its meetings, and at any and all other times on the property of the Town of Unicoi and at any and all other governmental functions of the Town of Unicoi at any location. The Town of Unicoi may request or designate law enforcement personnel to serve as sergeant-at-arms for any meeting or other governmental function of the Town of Unicoi.

(3) Procedure for all meetings of the Town of Unicoi shall be conducted in substantial conformity with the procedure set forth in *Robert's Rules of Order, Newly Revised*. (2004 Code, § 1-201)

1-202. Copies of documents. The board of mayor and aldermen wishes to provide incidental copying service to the citizens of the Town of Unicoi, and will copy up to ten (10) pages per month, at no charge. Businesses wishing to make copies or businesses wishing to obtain copies of town documents, will be charged fifty cents (\$0.50) per copy for provision of this service. Work copies utilized by town officials and press packets utilized at town meetings are exempt from this copy fee. (2004 Code, § 1-202)

CHAPTER 3

CODE OF ETHICS¹

SECTION

- 1-301. Applicability.
- 1-302. Definition of personal interest.
- 1-303. Disclosure of personal interest by official with vote.
- 1-304. Disclosure of personal interest in nonvoting matters.
- 1-305. Acceptance of gratuities, etc.
- 1-306. Use of information.
- 1-307. Use of municipal time, facilities, etc.
- 1-308. Use of position or authority.
- 1-309. Outside employment.
- 1-310. Ethics complaints.
- 1-311. Violations and penalty.

1-301. Applicability. This chapter is the code of ethics for personnel of the Town of Unicoi. 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 town. The words "municipal" and "town" or "Town of Unicoi" include these separate entities. (2004 Code, § 4-301)

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

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

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

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

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

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

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

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

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

1-302. Definition of personal interest. (1) For purposes of §§ 1-303 and 1-304, "personal interest" means:

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

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

(c) Any such financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), 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. (2004 Code, § 4-302)

1-303. Disclosure of personal interest by official with vote. An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may excuse himself¹ from voting on the measure. (2004 Code, § 4-303)

1-304. 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, excuse himself from the exercise of discretion in the matter. (2004 Code, § 4-304)

1-305. 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 town:

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

(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. (2004 Code, § 4-305)

1-306. 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. (2004 Code, § 4-306)

1-307. 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 town. (2004 Code, § 4-307)

1-308. Use of position or authority. (1) An official or employee may not take or attempt to make private purchases, for cash or otherwise, in the name of the municipality.

(2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for himself or others that is not authorized by the charter, general law, or ordinance or policy of the town. (2004 Code, § 4-308)

1-309. 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 town's charter or any ordinance or policy. (2004 Code, § 4-309)

1-310. Ethics complaints. (1) The town attorney is designated as the ethics officer of the town. Upon the written request of an official or employee potentially affected by a provision of this chapter, the town attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.

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

(b) The town attorney may request that the board of mayor and aldermen hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interest in a particular matter.

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

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

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics. (2004 Code, § 4-310)

1-311. Violations and penalty. An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or other instrumentality who violates any provision of this chapter is subject to punishment as provided by the town's charter or other applicable law and in addition is subject to censure by the board of mayor and aldermen. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action. (2004 Code, § 4-311)

TITLE 2

BOARDS AND COMMISSIONS, ETC.

[RESERVED FOR FUTURE USE]

TITLE 3**MUNICIPAL COURT¹****CHAPTER****1. TOWN JUDGE.****CHAPTER 1****TOWN JUDGE****SECTION****3-101. Town judge.**

3-101. Town judge. (1) There shall be appointed a judge of the municipal court heretofore referred to as the city judge or municipal judge who shall hereafter be known and referred to as the municipal judge.

(2) In event the municipal judge is unavailable, temporarily, to preside over municipal court for any reason, then the General Session Judge of Unicoi County shall sit in the municipal judge's place. If the general session judge is unavailable then an attorney, meeting the same qualifications as a general session judge shall sit temporarily.

(3) In the event there is a vacancy in office or disability of the municipal court judge the mayor or the Town of Unicoi shall designate an attorney possessing the qualifications set out below to serve as municipal court judge pending appointment of a successor municipal court judge by the board of mayor and aldermen.

(4) The qualifications to serve as municipal judge shall be as follows:

(a) The municipal judge shall be thirty (30) or more years of age.

(b) The municipal judge shall be licensed to practice law in the State of Tennessee and shall have graduated from an accredited, post-graduate, three (3) year law school program.

(c) The municipal judge shall be a resident of the Town of Unicoi. In the event no person, acceptable to the board of mayor and aldermen, to serve as municipal judge, and meeting the qualifications set out above resides in the Town of Unicoi the municipal judge shall be a resident of Unicoi County.

(5) The compensation of the municipal judge shall be two hundred dollars (\$200.00) per month or such other amount as the board of mayor and aldermen may from fiscal year to year set as the monthly compensation of the

¹Charter references

City judge--city court: § 6-4-301.

municipal judge, which fixing of compensation shall be by budget enactment and shall not require amendment of this chapter.

(6) The term of office of the municipal judge shall be from designation or appointment until a successor shall have been designated or appointed, as set forth herein, and the successor municipal judge has taken the oath of office.

(7) Municipal court costs shall be one hundred dollars (\$100.00) per violation, charge and/or citation. (Ord. #2019-267, Dec. 2019, as amended by Ord. #2021-295, July 2021)

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER****1. TRAVEL REIMBURSEMENT REGULATIONS.****CHAPTER 1****TRAVEL REIMBURSEMENT REGULATIONS****SECTION**

- 4-101. Purpose.
- 4-102. Enforcement.
- 4-103. Travel policy.
- 4-104. Travel reimbursement rate schedules.
- 4-105. Administrative procedures.

4-101. Purpose. The purpose of this chapter and referenced regulations is to bring the town into compliance with *Tennessee Code Annotated*, § 6-54-901--907. This law requires Tennessee municipalities to adopt travel and expense regulations covering expenses incurred by "any mayor and any member of the local governing body and any board or committee member elected or appointed by the mayor or local governing body, and any official or employee of the municipality whose salary is set by charter or general law."

To provide consistent travel regulations and reimbursement, this ordinance is expanded to cover regular city employees. It is the intent of this policy to assure fair and equitable treatment to all individuals traveling on town business at town expense.

4-102. Enforcement. The Chief Administrative Officer (CAO) of the town or his or her designee shall be responsible for the enforcement of these travel regulations.

4-103. Travel policy. (1) In the interpretation and application of this chapter, the term "traveler" or "authorized traveler" means any elected or appointed municipal officer or employee, including members of municipal boards and committees appointed by the mayor or the municipal governing body, and the employees of such boards and committees who are traveling on official municipal business and whose travel was authorized in accordance with this chapter. "Authorized traveler" shall not include the spouse, children, other relatives, friends, or companions accompanying the authorized traveler on town 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 town. Reimbursable expenses shall include expenses for transportation; lodging; meals; registration fees for conferences, conventions and seminars; and other actual and necessary expenses related to official business as determined by the CAO. Under certain conditions, entertainment expenses may be eligible for reimbursement.

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

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

(4) Travel advances are available only for special travel and only after completion and approval of the travel authorization form.

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

(6) To qualify for reimbursement, travel expenses must be:

(i) Directly related to the conduct of the town business for which travel was authorized; and

(ii) Actual, reasonable and necessary under the circumstances.

The CAO may make exceptions for unusual circumstances.

Expenses considered excessive will not be allowed.

(7) Claims of five dollars (\$5.00) or more for travel expense reimbursement must be supported by the original paid receipt for lodging, vehicle rental, phone call, public carrier travel, conference fee and other reimbursable costs.

(8) Any person attempting to defraud the town or misuse town travel funds is subject to legal action for recovery of fraudulent travel claims and/or advances.

(9) Mileage and motel expenses incurred within the town are not ordinarily considered eligible expenses for reimbursement.

4-104. Travel reimbursement rate schedules. Authorized travelers shall be reimbursed according to the State of Tennessee travel regulation rates. The town'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.

4-105. Administrative procedures. The town adopts and incorporates by reference--as if fully set out herein--the administrative procedures submitted

by MTAS to, and approved by letter by, the Comptroller of the Treasury, State of Tennessee. A copy of the administrative procedures is on file in the office of the recorder.¹

¹State law reference

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

TITLE 5**MUNICIPAL FINANCE AND TAXATION**¹**CHAPTER**

1. MISCELLANEOUS.
2. PURCHASING.

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

5-101. Official depository for town funds.

5-101. Official depository for town funds. (1) Any banking, savings and loan institution or credit union, which is chartered to do business in Tennessee and insured by an agency of the federal government, is hereby designated as a financial depository for the Town of Unicoi. The current institutions used by the Town of Unicoi are: the Local Government Investment Pool operated by the State of Tennessee, the Bank of Tennessee, First Tennessee Bank, Mountain Commerce Bank and the Appalachian Community Federal Credit Union. It shall be lawful under this section for the Town of Unicoi to do business with banking, savings and loan institution or credit union, which is chartered to do business in Tennessee and insured by an agency of the federal government.

(2) All banking papers must be signed by both the current mayor and the current town recorder for either depositing or withdrawing funds. (2004 Code, § 5-101)

¹Charter references

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

CHAPTER 2

PURCHASING

SECTION

5-201. Maximum amount without approval of board of mayor and aldermen.

5-202. Competitive bidding, less than \$4,000.00.

5-203. Competitive bidding, \$4,000.00 - \$10,000.00.

5-204. Maximum amount without public advertisement and competitive bidding.

5-201. Maximum amount without approval of board of mayor and aldermen. (1) The Town of Unicoi does hereby establish a value of fifty dollars (\$50.00) as the maximum amount that can be spent by the town without prior approval of the board of mayor and aldermen.

(2) Prior approval may be solicited by telephone if the need exists prior to a regularly scheduled or, special meeting of the board of mayor and aldermen. (2004 Code, § 5-201)

5-202. Competitive bidding, less than \$4,000.00. Public advertisement and competitive bidding shall be required for the purchase of all goods and services exceeding an amount of ten thousand dollars (\$10,000.00) except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983, *Tennessee Code Annotated*, § 6-56-301, *et seq.* (Ord. #2019-258, Feb. 2019)

5-203. Competitive bidding, \$4,000.00 - \$10,000.00. Purchases on all goods and services that cost between four thousand dollars (\$4,000.00) and ten thousand dollars (\$10,000.00) shall be made by competitive bidding and shall be awarded to the lowest responsible bidder, except for those purchases specifically exempted from advertisement and bidding by the Municipal Purchasing Act of 1983. The Town of Unicoi has the right to reject any and all bids. A written record shall be required and be available for inspection showing that competitive bids were obtained by one (1) or more of the following methods:

- (1) Direct mail request to prospective bidders;
- (2) Telephone;
- (3) Public notice posted on the bulletin board in the municipal building.
- (4) Email. (Ord. #2019-258, Feb. 2019)

5-204. Maximum amount without public advertisement and competitive bidding. Public advertisement and/or competitive bidding shall not be required for the purchase of goods and services up to four thousand

dollars (\$4,000.00). The town recorder is expected to obtain the best prices and services available for purchases and contracts of four thousand dollars (\$4,000.00) or less. (Ord. #2019-258, Feb. 2019)

TITLE 6**LAW ENFORCEMENT****CHAPTER****1. POLICE DEPARTMENT.****CHAPTER 1****POLICE DEPARTMENT****SECTION**

6-101. Enforcement of rules of the road.

6-102. Police department.

6-101. Enforcement of rules of the road. The Board of Mayor and Alderman of the Town of Unicoi has determined that it is in the best interests of the citizens of the Town of Unicoi and the Town of Unicoi Police Department be authorized to enforce the Rules of the Road as set forth in *Tennessee Code Annotated*, § 55-8-101 *et seq.*, *Tennessee Code Annotated*, § 55-10-308 *et seq.* and pursuant to Town of Unicoi Code § 15-201 on the portions of the interstate highway lying within the territorial limits of the Town of Unicoi. (Ord. #2021-288, Feb. 2021)

6-102. Police department. (1) There shall be a police department within the Town of Unicoi.

(2) The chief office of the Town of Unicoi Police Department shall be the police chief.

(3) Town of Unicoi Police Policy is enacted upon recommendation of the chief of police by the board of mayor and aldermen. Violations of police policy shall result in discipline within the Town of Unicoi Police Department which may result in action up to and including termination within the discretion of the chief of police. Discipline of the chief of police shall be within the discretion of the Mayor of the Town of Unicoi upon recommendation of the city recorder. The town attorney shall upon submission by the chief of police and/or the mayor or city recorder, review all use of force reports and other disciplinary matters and make recommendations concerning same to the mayor and city recorder.

(4) The Town of Unicoi Chief of Police shall be responsible for organization, staffing and discipline within the department and shall have all other powers necessary and appropriate to the operation of the Town of Unicoi Police Department and shall conduct same within the budgetary authorization of the Board of Mayor and Aldermen of the Town of Unicoi.

(5) There shall be no budgetary adjustment by line item moves within the approved budget of the Town of Unicoi Police Department without approval of the mayor and city recorder of the Town of Unicoi. (Ord. #2021-292, July 2021)

TITLE 7

FIRE PROTECTION AND FIREWORKS

[RESERVED FOR FUTURE USE]

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

1. BEER.
2. INTOXICATING LIQUORS.

CHAPTER 1**BEER²****SECTION**

- 8-101. Beer board.
- 8-102. Authorization of beer businesses.
- 8-103. Locations of beer businesses.
- 8-104. Hours and days of sale, etc., regulated.
- 8-105. Public consumption of beer prohibited.
- 8-106. Beer permits.
- 8-107. Permits for retail sale; types designated.
- 8-108. Restrictions upon issuance of on-premises beer permits.
- 8-109. Restrictions on financial interests of beer permit holders.
- 8-110. Restrictions upon issuance of off-premises beer permits.
- 8-111. Selling or otherwise dispensing beer to persons in motor vehicles prohibited.
- 8-112. Restrictions pertaining to underage persons.
- 8-113. Restrictions pertaining to intoxicated persons.
- 8-114. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited.
- 8-115. Suspension or revocation of beer permits.
- 8-116. Civil penalty in lieu of suspension.
- 8-117. Inspection of beer businesses.
- 8-118. Prior permit holders.
- 8-119. Information to be kept on file with town recorder.
- 8-120. Adoption of open container statute.

¹State law reference
Tennessee Code Annotated, title 57.

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

8-121 Violations and penalty.

8-101. Beer board. There is hereby created a board, to be known as the Town of Unicoi Beer Board, which shall be composed of the members of the board of mayor and aldermen of the Town of Unicoi, whose duty it shall be to regulate, supervise, and control the issuance, suspension, and revocation of permits to sell, store, distribute, dispense, serve, and/or manufacture beer and other beverages of like alcoholic content shall be the same as the definition appearing in *Tennessee Code Annotated*, § 57-5-101, in the Town of Unicoi. The mayor shall be the chairman and the town recorder shall be the secretary of said board. A majority of the board shall constitute a quorum for any purpose. Matters before the board will be decided by a majority present if a quorum is constituted.

The secretary of the board shall keep a record of all the proceedings of the board, which shall be a public record and shall contain at least the following:

- (1) The date of each meeting;
- (2) The names of the board members present and absent;
- (3) The names of the members introducing and seconding motions and resolutions, etc., before the board;
- (4) A copy of each such motion or resolution presented;
- (5) The vote of each member thereon; and
- (6) The provisions of each beer permit issued by the board.

The recorder shall further keep on file in his office all original applications and a duplicate of each permit issued. The board shall be empowered to employ a court reporter or person of equivalent ability whenever necessary in any hearing before it. The power, right, and authority are hereby conferred upon said board to arrange for and prescribe the details and form of the necessary applications, permits, and other matters incident to carrying out the provisions of this chapter.

The board shall meet upon call of the chairman of the board to transact such business as may properly come before it. The board may adjourn a meeting at any time to another time and place. All meetings of the board shall be open to the public.

The board shall perform such other duties and have such other power and authority provided by statute and this chapter. (2004 Code, § 8-101)

8-102. Authorization of beer businesses. Pursuant to *Tennessee Code Annotated*, §§ 57-5-202, *et seq.*, it shall be lawful in the Town of Unicoi to transport, store, sell, distribute, possess, receive, or manufacture beer of alcoholic content shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101, and/or any other beverage of like alcoholic content, subject to the provisions of this chapter and the privilege taxes provided in this code. Provided, however, it shall be unlawful for any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other

group operating as a unit to sell, store, dispense, serve, distribute, and/or manufacture any of the said beverages regulated by this chapter within the Town of Unicoi without having first obtained a duly issued permit and license to do so in the manner prescribed in this chapter. The term "beer" as used in this chapter shall mean and include all beers, ales, and other malt liquors, including "wine coolers," having alcoholic content the same as the definition appearing in *Tennessee Code Annotated*, § 57-5-101.

All 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 his permit. It shall likewise be unlawful for the permit holder not to comply with any and all express restrictions or conditions which may be written into his permit by the Town of Unicoi Beer Board. (2004 Code, § 8-102)

8-103. Locations of beer businesses. No beer permit shall be granted for any location where there may be, in the opinion of the Town of Unicoi Beer Board, an adverse effect in consideration of the type and character of the neighborhood, the population density of the neighborhood, the proximity of places of public gathering, the likelihood of such business causing congestion of traffic or would otherwise interfere with public health, safety and morals. In no event will a permit be issued authorizing the manufacture or storage of beer, or the sale of beer, or the consumption of beer within three hundred feet (300') of any hospital, school, church or other place of public gathering. The distances shall be measured in a straight line from the nearest point of the property line upon which sits the building from which the beer will be manufactured, stored, or sold, or consumed to the nearest point on the property line of the hospital, school, church or other place of public gathering. (2004 Code, § 8-103)

8-104. Hours and days of sale, etc., regulated. It shall be unlawful for any person, firm, corporation, joint stock company, syndicate, or association to offer for sale or sell beer or other alcoholic beverage with an alcoholic content being the same definition appearing in *Tennessee Code Annotated*, § 57-5-101 within the corporate limits of Unicoi, Tennessee between the hours of 3:00 A.M. and 8:00 A.M. on weekdays, or between the hours of 3:00 A.M. and 12:00 noon on Sundays. No such beverages shall be consumed or opened for consumption on or about any premises where beer or other beverages with an alcoholic content being the same as the definition appearing in *Tennessee Code Annotated*, § 57-5-101 is sold within the corporate limits of Unicoi, Tennessee in either bottle, glass or other container after 3:15 A.M. (2004 Code, § 8-104)

8-105. Public consumption of beer prohibited. None of the beverages regulated by this chapter shall be consumed upon any public street, alley, boulevard, bridge, nor upon the grounds of any cemetery or school,

whether public or private, nor upon any park or public grounds nor upon the grounds belonging to any church nor upon vacant lots within two hundred feet (200') of any public street, highway, avenue, or other public place; provided, however, that the foregoing does not prohibit personal use, outside of public view of the beverages regulated on the private property of the user and/or his non-commercial guests, and it shall further be lawful for beverages regulated by this chapter to be consumed at special events and festivals as otherwise permitted herein at whatever such locations the special events and/or festival is permitted. (2004 Code, § 8-105)

8-106. Beer permits. (1) No permit shall be issued except upon application in writing of the owner or owners of the business made to the Town of Unicoi Beer Board, which application shall be sworn to by the applicants. Each applicant must be a person of good moral character and certify that he has read and is familiar with the provisions of this chapter. All applications shall be made upon a regular form provided for that purpose, and shall be filed with the secretary of the board. In no event shall a permit be issued without the written approval of the application therefore by a majority of the board.

Special event and festival permits, which are temporary permits, extending for no more than a three (3) day period may be obtained upon proper application to the board as further set forth herein. Special events and festivals shall be defined as business, social, charitable, fraternal or other gatherings or events of a temporary nature not to extend in excess of three (3) twenty-four (24) hour days.

Prior to consideration of an application, except for special event and festival permits, the Town of Unicoi shall collect an applicant fee of two hundred fifty dollars (\$250.00) in the form of a cashier's check payable to the Town of Unicoi in accordance with *Tennessee Code Annotated*, § 57-5-204. Prior to consideration of an application for a special event or festival permit, the Town of Unicoi shall collect an applicant fee of one hundred dollars (\$100.00) in the form of a cashier's check payable to the Town of Unicoi in accordance with *Tennessee Code Annotated*, § 57-5-204.

(2) Each beer licensee must show in its application and by affidavit later filed as to all subsequent hires that all of the laws with reference to a person serving alcoholic beverages under the permit have been complied with.

(3) All applications for any permits required hereunder shall be verified by oath or affidavit and shall establish the following:

(a) That neither the applicant nor any person or persons employed by him in such distribution or sale has been convicted of any violation of the statutes of the State of Tennessee prohibiting the possession, sale, manufacture, or transportation of intoxicating liquors or any other crime involving moral turpitude in the past ten (10) years.

(b) That no sale shall be made to persons under twenty-one (21) years of age, nor shall underage persons be employed directly in the sale or distribution of such beverages.

(c) That no minor shall be allowed to loiter about the applicant's premises.

(d) That no sale shall be made to persons intoxicated or who are insane or otherwise mentally incapacitated.

(e) That the applicant is of good character and has a sufficient legal interest in a suitable location as to entitle the applicant to conduct the sale of beer at such place of business.

(f) That, in the place of business where such beverages will be sold or distributed, no loud, unusual or obnoxious noises shall be allowed, and the applicant shall conduct such place of business otherwise in an orderly, peaceful, and lawful manner.

(g) That no sale or distribution of such beverages shall be made at a place where such sale or distribution will cause congestion of traffic or interference of schools, churches, or other places of public gathering, or will otherwise interfere with public health, safety and morals.

(h) That, in the place of business where such beverages will be sold or distributed, the consumption of any beverages with an alcoholic content The term "beer" as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101, shall not be allowed, except in places that hold valid licenses for the sale of alcoholic beverages by the drink, as issued by the Alcoholic Beverage Commission of the State of Tennessee.

(i) That, in the place of business where such beverages are sold for consumption on-premises, proper sanitary facilities for both sexes shall be provided.

(j) That the person so applying will conduct the business in person, or if he is acting as agent for any other person, firm, corporation or association, the name or names of the owners of such business, together with their addresses and the nature of the firm, corporation or association for whom the applicant is acting.

(4) Permits, other than temporary permits for special events or festivals as otherwise set forth herein, shall be issued for an indefinite period of time except that the Town of Unicoi Beer Board may issue a permit for a shorter or probationary period if, in its discretion, it deems such action proper and reasonable under the circumstances.

(5) 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, 1995, and on each successive January 1, to the Town of Unicoi, 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, all as provided in *Tennessee Code Annotated*, § 57-5-104. A penalty of ten dollars (\$10.00) will be assessed on the second working day following January 1st, and on each successive working day until the privilege tax is paid.

(6) No permit now in force or hereafter issued shall be good or valid except at the location described in the application upon which it is based; nor shall any such permit be transferable.

(7) The applicant or a representative may be required to appear in person before the board and subject himself to examination upon any and all questions appertaining to his qualifications under this chapter and amendments thereto.

(8) No permit may be granted hereunder to any establishment when any person, firm or corporation having at least a five percent (5%) ownership in the establishment has been convicted within ten (10) years prior to the application for a permit hereunder of a violation of the laws governing the sale or manufacture of alcoholic beverages or of any felony, or has had a beer permit revoked or suspended within the past ten (10) years.

(9) Every permit and license issued pursuant to this chapter shall be displayed in a conspicuous place framed under glass and placed so it can be easily read in the place of business named and described in the permit.

(10) No permit or license shall be issued pursuant to this chapter unless the applicant establishes to the satisfaction of the beer board that he has obtained all permits and paid all required fees and privilege taxes, and has met all other requirements of the laws of the State of Tennessee and the United States. No permit or license shall be granted unless or until the party desiring the same shall have filed with the town recorder a copy of the bond provided for in *Tennessee Code Annotated*, §§ 57-5-101, *et seq.*

(11) The holder of a permit issued pursuant to this chapter desiring to voluntarily surrender the permit shall tender said permit to the Town of Unicoi Beer Board. The board shall take such action upon the offer to surrender as it may determine necessary and advisable under the circumstances, and it shall have the absolute authority to refuse to accept the surrender of any permit.

(12) A majority of the full board shall consider all applications filed under this chapter and grant or refuse the license according to its best judgment under all of the facts and circumstances, and the action of the majority of the full board in granting or refusing a license shall be final, except as same is subject to review by law.

In the consideration of the applications, the beer board shall take into consideration the type and character of the neighborhood; the population density in the area; present and future traffic conditions in the location and in the neighborhood; the proximity of schools, parks and playgrounds; the proximity of churches or other religious establishments; any problems of law enforcement

in the area; and other such factors as are brought to the attention of the board which will affect the public health and welfare.

(13) Any person, firm or corporation holding a permit under this chapter who proposes to transfer the business operated under the permit to any other person, firm or corporation with the intention or the expectation that the buyer will engage in the business of selling beer at the same location shall be required to notify the beer board of such intention to transfer the business.

The board shall be furnished with the name of the proposed buyer, who shall be required to make application for a permit to the board. Such application shall conform to the requirements for other applications for permits as set out in this chapter.

In the event a proposed buyer acquires the business operated under this permit, and such transfer is to become final upon condition that the buyer obtains a regular beer permit, the buyer may obtain a temporary permit from the town recorder upon the determination of the town recorder that the buyer is about to comply with this chapter. Such temporary permit shall be valid only until the first meeting of the beer board is held after the issuance of said temporary permit and in no event shall such temporary permit be valid more than twenty-one (21) days from the date of issuance. The holder of a temporary permit shall be subject to all restrictions and penalties provided for regular permit holders by this chapter. Temporary permits shall not be issued except for premises for which the beer permit has been issued to another owner or operator at the time application is made for such temporary permit.

(14) In the event a holder of a permit shall cease to operate his business for which said permit was issued, the permit shall become invalid and void at 12:00 midnight of the date on which the holder ceases to operate the business. Said licensee shall, within five (5) days thereafter, surrender said permit to the town recorder.

Renewal of a permit upon the expiration of same shall be done likewise in accordance with the provisions of this chapter. (2004 Code, § 8-106)

8-107. Permits for retail sale; types designated. Permits for the retail sale of beer shall be of two (2) types:

(1) On-premises permits. On-premises permits shall be issued for the consumption of beer on the premises in accordance with the provisions of this chapter. There shall be no limitation on the number of beer permits issued for on-premises consumption.

On-premises permits shall include special event and festival permits, which are temporary permits, extending for no more than a three (3) day period.

(2) Off-premises permits. Off-premises permits shall be issued for the sale of beer only for consumption off the business premises in accordance with the provisions of this chapter.

Both on-premises and off-premises permits may be held and the permits may be for an indeterminate time or temporary as set forth in the permit or permits. (2004 Code, § 8-107)

8-108. Restrictions upon issuance of on-premises beer permits.

Permits for the on-premises sale of beer shall be issued according to the following limitations:

(1) Any applicant for an on-premises beer permit must first obtain, and show satisfactory proof to the board that he has obtained a license to serve mixed beverages pursuant to chapter 2 of this title and the provisions of the *Tennessee Code Annotated* referenced therein.

(2) Additionally, with respect to any applicant who applies under the auspices of being a "restaurant" under chapter 2 of this title and the provisions of the *Tennessee Code Annotated* referenced therein, said applicant's annual sales of alcoholic beverages as defined in this chapter shall not exceed fifteen percent (15%) of total taxable sales. In the application of this section, "total taxable sales" shall be defined as those food and non-alcoholic beverage sales subject to state and local sales taxes. It shall be a violation of this section if the alcoholic beverage sales exceed the fifteen percent (15%) limit in two (2) consecutive months or three (3) months in any calendar year. (2004 Code, § 8-108)

8-109. Restrictions on financial interests of beer permit holders.

No brewer, wholesaler, or manufacturer of any of the beverages regulated by this chapter, nor any agent or agents of such brewer, wholesaler, or manufacturer shall be permitted to make any loan of money or furnish any fixtures of any kind or have any interest either directly or indirectly in the business of any retailer of such beverages, or in the premises occupied by any such retailer. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall, while so doing, convey or grant or contract to convey or grant any interest in the business located at the place named in said permit, or any interest in the premises or any property therein, to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter. No person holding and/or exercising an unexpired permit or license issued pursuant to this chapter shall incur or contract any indebtedness or financial obligation to any brewer, wholesaler, or manufacturer of the beverages regulated by this chapter, except for the purchase of said beverages. No permit or license shall be granted under this chapter to any applicant who, at the time of making application, is indebted or financially obligated to any such brewer, wholesaler, or manufacturer, except for the purchase of said beverages in the case of applicants seeking renewal of permits. (2004 Code, § 8-109)

8-110. Restrictions upon issuance of off-premises beer permits.

Permits for the off-premises sale of beer shall be issued according to the following classes and limitations:

(1) Off-premises where beer is sold at a grocery (food store). "Grocery" shall mean a business establishment whose primary business is the retail sale of food merchandise and household items. Beer shall not be sold for consumption on the premises of grocery stores. There shall be no limitation on the number of beer permits issued to grocery stores.

(2) Off-premises where beer is sold at a convenience store or market. "Convenience store or market" shall mean a business establishment whose business is the retail sale of gasoline and petroleum products and food merchandise, household supplies, and sundries. Beer shall not be sold for consumption on the premises of convenience stores or markets. There shall be no limitation on the number of beer permits issued to convenience stores or markets.

(3) Off-premises where beer is sold at a drug store. "Drug store" shall mean a business establishment whose primary business is the retail sale of pharmaceuticals, food merchandise, household items, and sundries. Beer shall not be sold for consumption on the premises of drug stores. There shall be no limitation on the number of beer permits issued to drugstores.

(4) Off-premises where beer is sold on the premises of a permitted manufacturer. "Permitted manufacturer" shall mean a business establishment which has been granted a manufacturing permit under this chapter. There shall be no limitation on the number of beer permits issued to manufacturing facilities. Retail sales of beer for off-premises consumption must be labeled in accordance with the requirements of the Federal Bureau of Alcohol, Tobacco and Firearms and must meet all other state and local regulations regarding off-premises sales. Retail sales of beer for off-premises consumption by a microbrewery pursuant to an off-premises permit must take place within the same premises where the product is manufactured. The requirements of *Tennessee Code Annotated*, § 75-5-101 as currently in effect are hereby adopted as if set out herein. Applications for permits under this section must be presented to the planning commission for a site plan approval prior to the beer board's consideration of the application. (2004 Code, § 8-110)

8-111. Selling or otherwise dispensing beer to persons in motor vehicles prohibited. The beverages regulated by this chapter shall not be sold, given away, served, or otherwise dispensed to persons in automobiles or other motor vehicles. This provision shall not apply to holders of off-premises permits lawfully selling and dispensing beer to persons in automobiles or other vehicles through a drive-up window as of January 1, 2007, and/or subsequent holders of an off-premises permit to sell beer for off-premises consumption at a location where beer was lawfully sold and dispensed to persons in automobiles

for other vehicles through a drive-up window as of January 1, 2007. (2004 Code, § 8-111)

8-112. Restrictions pertaining to underage persons. Except as authorized by state laws, no sales, gifts, or distribution of such beverages shall be made or permitted to be made to persons under twenty-one (21) years of age (hereinafter referred to as "underage persons"); nor shall any minor be employed or used or permitted to be employed or used for or in the sale or distribution or other handling of such beverages where on-premises consumption of such beverages is permitted; nor shall any minor be permitted or allowed to drink beer or other beverages of like alcoholic content in any establishment or place of business or premises where a permit issued pursuant to this chapter is exercised. Every person to whom a permit is issued under this chapter shall require any and every employee as to whose majority there is any possible question or doubt to present and leave with him a copy of such employee's birth certificate. Underage persons shall not be permitted to loaf or loiter in any place where the beverages regulated by this chapter are sold. The burden of ascertaining the age of minor customers shall be upon the holder of the permit. (2004 Code, § 8-112)

8-113. Restrictions pertaining to intoxicated persons. None of the beverages regulated by this chapter shall be sold or given away or otherwise dispensed or served to any person in a drunken condition; nor shall any person in such condition be permitted or allowed to consume any such beverages upon or in any premises or place of business where such beverages are sold, dispensed, served, or distributed. No person holding a permit under and dealing in or handling the beverages regulated by this chapter shall permit or allow upon his premises or in his place of business any person who is under the influence of any intoxicant whatsoever. It shall be the duty of any person holding a permit under and dealing in and handling the beverages regulated by this chapter to promptly notify police officers when any person under the influence of any intoxicant whatsoever enters the premises or place of business of the person holding such permit.

No owner, co-owner, operator, proprietor, employee or servant of a place of business holding and/or exercising a permit issued pursuant to this chapter shall drink or be under the influence of any of the beverages regulated by this chapter or any other intoxicant while in or working at any such place of business or while upon any such premises. (2004 Code, § 8-113)

8-114. Selling or otherwise dispensing beer to persons without valid permits or to persons engaging in unlawful practices prohibited. It shall be unlawful for any person, firm, co-partnership, corporation, syndicate, joint stock company, association or other group operating as a unit, who or which holds and/or exercises a distributor's or wholesaler's permit under this

chapter, except those sales, gifts, deliveries or distributions pursuant to a special event or festival provided for herein, to sell, give away, deliver, or distribute any of the beverages regulated by this chapter to any person, firm, co-partnership, corporation, syndicate, club, joint stock company, association, or other group operating as a unit, in the Town of Unicoi, who or which does not hold a valid retailer's permit issued pursuant to this chapter, or to permit or allow any agent or employee to do so. Provided, further, that it shall also be unlawful for any such distributor or wholesaler knowingly to sell, give away, deliver, or distribute such beverages to any such retailer who has violated or is violating any of the provisions of this chapter, or to permit or allow any agent or employee to do so. (2004 Code, § 8-114)

8-115. Suspension or revocation of beer permits. The Town of Unicoi Beer Board is hereby empowered and directed, whenever from facts and evidence presented to it at a public hearing hereinafter provided for it is of the opinion that such action is justified in the public interest, to suspend or revoke any permit or license issued pursuant to this chapter to any person, firm, co-partnership, corporation, joint stock company, syndicate, association, or group operating as a unit, who:

(1) Makes any material representation or false statement in the application upon which the permit is based or fails to keep and maintain as true any promise or fact set forth in said application.

(2) Violates any of the provisions of this chapter.

(3) Is convicted of any violation of the laws of the United States or of the State of Tennessee or of the ordinances of any town prohibiting the manufacture, sale, possession, storage or transportation of intoxicating liquors of alcoholic content being the same as the definition appearing in *Tennessee Code Annotated*, § 57-5-101.

(4) Knowingly permits or allows, or negligently fails to prevent, the violation of any of the aforesaid laws or ordinances against said intoxicating liquors upon any premises occupied or owned by or under the control of the licensee.

Upon any complaint being made to the said board by a board member, the public safety director, or one (1) or more reputable citizens that any of the acts above-mentioned in this section has been committed or any other provision of this chapter has been or is being violated by a person holding and/or exercising a permit issued pursuant to this chapter, or when said board has knowledge of any such act or violation, the holder of said permit shall be notified in writing by the secretary of the board and afforded an opportunity for a hearing before the board. Said notice shall be mailed at least five (5) days before the hearing to the address shown upon the application for a permit, shall state the nature of the complaint or violation, and shall direct the holder of said permit to appear before the board at a time and place specified and show cause, if any he has, why the holder's permit should not be revoked. The hearing shall be broad in

character, and evidence may be heard upon any facts or circumstances pertinent to or applicable to the violation charged. The reputation or character of the place and of the holder of the permit complained of shall be material and competent evidence for the consideration of the board at such hearing.

Whenever complaint is made charging that false statements or misrepresentations have been made in any application for a permit under this chapter, the burden of proof shall be upon the holder of the permit to establish the truth of the statement charged to be false. Provided, that no formal complaint shall be necessary or required whenever the falsity of such statement or representation, or the commission of any of the acts above-mentioned in this section, or the violation of any other provision of this chapter, may be made to appear by the records of any court of competent jurisdiction; and in such case, such records or duly certified copies thereof shall be conclusive evidence of the falsity or misrepresentation or of the commission of said act or of said violation.

Provided, further, that no person, firm, co-partnership, corporation, joint stock company, syndicate, association, or other group operating as a unit, whose permit and license are revoked by said board shall be eligible to make application for or be granted another permit under this chapter for a period of ten (10) years from the date said revocation becomes final.

Provided, further, that when a permit and license are revoked by said board pursuant to this chapter no new permit or license shall be issued for the same premises until the expiration of one (1) year from the date said revocation becomes final.

The secretary shall notify the Town of Unicoi Beer Board of the revocation of any permit under this chapter. (2004 Code, § 8-115)

8-116. Civil penalty in lieu of suspension. The Town of Unicoi 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 one thousand five hundred dollars (\$1,500.00) for each offense or making or permitting to be made any sales to underage persons or, a civil penalty not to exceed one thousand dollars (\$1,000.00) 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 civil penalty is paid within that time, the revocation or suspension shall be deemed withdrawn. (2004 Code, § 8-116)

8-117. Inspection of beer businesses. The Unicoi County Sheriff's Department and/or police officers of the Town of Unicoi shall have the right to inspect at any and all times the entire premises and property where or upon or in which the beverages regulated by this chapter are sold, stored, transported, or otherwise dispensed or distributed or handled, whether at retail or wholesale, in the Town of Unicoi for any law violations. (2004 Code, § 8-117)

8-118. Prior permit holders. Any person, firm, corporation, or legal entity heretofore issued a permit for the sale of beer by the Town of Unicoi, and conducting sales under such permit on the effective date of this chapter shall, in order to continue such sales, be required to apply for a permit for the sale of beer within the municipality under the provisions of this chapter at the regular renewal date of their present permit. (2004 Code, § 8-119)

8-119. Information to be kept on file with town recorder. Each holder of a beer permit shall continuously maintain in this town:

(1) A registered office which may be the same as the permitted place of business. Notice shall be provided to the town recorder of any change in the registered office.

(2) A registered agent, who shall be an individual who resides in Unicoi County and whose business office is identical with the registered office. Notice shall be provided to the town recorder of any change in the registered agent.

(3) All documentation on file with the town recorder required to be provided to, and on the forms provided by the town recorder to assure compliance with the provisions of this chapter. (2004 Code, § 8-120)

8-120. Adoption of open container statute. (1) By the authority granted under *Tennessee Code Annotated*, the Town of Unicoi adopts by reference as if fully set forth in this section, the "Open Container Law," as codified in *Tennessee Code Annotated*, § 55-10-416.

(2) The penalty for each violation of this section shall be punishable as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00) plus Town of Unicoi Municipal Court costs. (2004 Code, § 8-122)

8-122. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Each day a violation shall be allowed to continue shall constitute a separate offense.

CHAPTER 2

INTOXICATING LIQUORS

SECTION

- 8-201. Definition of "alcoholic beverages."
- 8-202. Consumption of alcoholic beverages on premises.
- 8-203. Privilege tax on retail sale of alcoholic beverages for consumption on the premises.
- 8-204. Annual privilege tax to be paid to the town recorder.
- 8-205. Gross sales tax.
- 8-206. Concurrent sales of liquor by the drink and beer.
- 8-207. Advertisement of alcoholic beverages.
- 8-208. Retail stores.
- 8-209. Violations and penalty.

8-201. Definition of "alcoholic beverages." As used in this chapter, unless the context indicates otherwise: "Alcoholic beverages" means and includes alcohol, spirits, liquor, wine, and every liquid containing alcohol, spirits, wine and capable of being consumed by a human being, other than patented medicine or beer, as used in this chapter shall be the same definition appearing in *Tennessee Code Annotated*, § 57-5-101. (2004 Code, § 8-201)

8-202. Consumption of alcoholic beverages on premises. *Tennessee Code Annotated*, title 57, chapter 4, inclusive, is hereby adopted so as to be applicable to all sales of alcoholic beverages for on-premises consumption which are regulated by the said code when such sales are conducted within the corporate limits of Unicoi, Tennessee. It is the intent of the board of mayor and aldermen that the said *Tennessee Code Annotated*, title 57, chapter 4, inclusive, shall be effective in Unicoi, Tennessee, the same as if said code sections were copied herein verbatim. (2004 Code, § 8-202)

8-203. Privilege tax on retail sale of alcoholic beverages for consumption on the premises. Pursuant to the authority contained in *Tennessee Code Annotated*, § 57-4-301, there is hereby levied a privilege tax (in the same amounts levied by *Tennessee Code Annotated*, title 57, chapter 4, § 301, for the Town of Unicoi General Fund to be paid annually as provided in this chapter) upon any person, firm, corporation, joint stock company, syndicate, or association engaging in the business of selling at retail in the Town of Unicoi alcoholic beverages for consumption on the premises where sold. (2004 Code, § 8-203)

8-204. Annual privilege tax to be paid to the town recorder. Any person, firm, corporation, joint stock company, syndicate or association

exercising the privilege of selling alcoholic beverages for consumption on the premises in the Town of Unicoi shall remit annually to the town recorder the appropriate tax described in § 8-203. Such payment shall be remitted not less than thirty (30) days following the end of each twelve (12) month period from the original date of the license. Upon the transfer of ownership of such business or the discontinuance of such business, said tax shall be filed within thirty (30) days following such event. Any person, firm, corporation, joint stock company, syndicate, or association failing to make payment of the appropriate tax when due shall be subject to the penalty provided by law. (2004 Code, § 8-204)

8-205. Gross sales tax. It shall be the responsibility of the town recorder to ensure that the town receives its share of the fifteen percent (15%) tax levied on the gross sales of alcoholic beverages sold at retail for consumption on premises and collected by the alcoholic beverage commission under *Tennessee Code Annotated*, § 57-4-301(c), and distributed to the state and its political subdivisions under *Tennessee Code Annotated*, § 57-4-306. (2004 Code, § 8-205)

8-206. Concurrent sales of liquor by the drink and beer. Any person, firm, corporation, joint stock company, syndicate or association which has received a license to sell alcoholic beverages in the Town of Unicoi, pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall qualify to receive a beer permit from the town. Note: Although an applicant may qualify, the beer board shall regulate the issuance of all beer licenses. (2004 Code, § 8-206)

8-207. Advertisement of alcoholic beverages. All advertisement of the availability of liquor for sale by those licensed pursuant to *Tennessee Code Annotated*, title 57, chapter 4, shall be in accordance with the Rules and Regulations of the Tennessee Alcoholic Beverage Commission. (2004 Code, § 8-207)

8-208. Retail stores. (1) Sale authorized. It shall be lawful for a licensee to sell alcoholic beverages at retail in a liquor store within the corporate limits of Unicoi, provided such retail license has been appropriately approved by the town and the state, and such sales are made in compliance with applicable state and federal statutes, rules and regulations, as well as the provisions established in this chapter. It shall be unlawful to engage in the business of selling, storing, transporting, distribution, or to purchase or possess alcoholic beverages within the corporate limits of this town except as provided by this chapter and *Tennessee Code Annotated*, title 57.

(2) License and certificate required. It shall be unlawful for any person, firm or corporation to sell alcoholic beverages at retail without first obtaining a license for such privilege in an off-premises liquor store through the State of Tennessee Alcoholic Beverage Commission, and without obtaining a

certificate of compliance for a specific store location by the Unicoi Board of Mayor and Aldermen as required by *Tennessee Code Annotated*, § 57-3-208.

(3) License restrictions. The requirements or restrictions established in *Tennessee Code Annotated*, §§ 57-3-204 to 57-3-210 apply to applicants for a retail liquor store license in Unicoi, including, but not limited to, the following:

(a) No retail license shall be issued to a person who is a holder of public office, either appointive or elective, or who is a public employee, either national, state, town or county except as specified in § 57-3-210(b)(1).

(b) No retailer or any employee shall be a person who has been convicted of a felony involving moral turpitude within ten (10) years prior to the time of the application, with the exception of such person whose rights of citizenship have been restored or judgment of infamy has been removed by a court of competent jurisdiction. No license shall be issued to a retailer who within ten (10) years preceding the application has been convicted of any offense under the laws of Tennessee or any other state in the United States prohibiting or regulating the sale, possession, transportation, storing, or manufacturing or otherwise handling of intoxicating liquors.

(c) No person shall have ownership in, or participate in, either directly or indirectly, the profits of any wholesale or retail liquor business licensed through the *Tennessee Code Annotated*, unless the interest in such business and the nature, extent and character thereof shall appear on the application or unless such interest is fully disclosed to the alcoholic beverage commission and is approved by it.

(d) No person shall be employed in a retail liquor store within the Town of Unicoi unless they are a citizen of the United States.

(e) No retailer or any employee thereof shall be a person under eighteen (18) years of age.

(f) The Town of Unicoi may make unscheduled inspections of retail liquor stores within the Town of Unicoi at any time.

(4) License application. Any person, firm, or corporation desiring to sell alcoholic beverages at a retail liquor store and not for consumption on premises, shall make application to the Tennessee Alcoholic Beverage Commission (ABC) for a retailer's license. The following conditions apply.

(a) Conditions established in *Tennessee Code Annotated*, § 57-3-204 must be met including payment of the application fee mandated by the State of Tennessee, as well as compliance with any applicable rules and regulations of the alcoholic beverage commission.

(b) The license application must be accompanied by a properly executed certificate of compliance from the Town of Unicoi.

(c) The license expires in twelve (12) months following the date of issuance. Each licensee must submit renewal applications annually to the ABC accompanied by the annual license fee.

(d) The applicant for a license must meet the public notice requirements established in § 0100-03-09(10) and (11) of the rules of the alcoholic beverage commission and must submit to the Town of Unicoi a copy of the newspaper notice with paper header showing compliance with this requirement.

(5) Application for certificate of compliance. An applicant for a license shall first obtain a certificate of compliance from the Town of Unicoi, as provided in *Tennessee Code Annotated*, § 57-3-208. The application for the certificate shall be in writing on forms prescribed and furnished by the town recorder. The application includes a request for a certificate of good moral character, as provided by *Tennessee Code Annotated*, §§ 57-3-208, *et seq.* Applications shall include, but not be limited to, the following information:

(a) The name, date of birth and street address of each person to have an interest, direct or indirect, in the license as owner, partner, or stockholder, director, officer, member or otherwise. In the event that a corporation, partnership, limited liability company or other legally recognized entity is an applicant or member of an applicant group, each person with an interest therein must be disclosed and must provide the information herein required by the town.

(b) Statement that each applicant or member in the applicant group has been a bona fide resident of the State of Tennessee for at least two (2) years immediately preceding the date the application is filed.

(c) The names and addresses of at least three residents of the town or state that have known each applicant for at least two (2) years.

(d) Occupation or business name and location of such business of applicant or persons in the applicant group, and length of time engaged in such occupation or business, including the name of the licensee and address of any other off-premises liquor stores in which an ownership interest is held by the applicant or any member of the applicant group, identifying the applicant or group members holding each interest.

(e) In the case where the applicant is a partnership, corporation, limited liability company or other such legally recognized entity, the application shall be accompanied by a copy of the partnership agreement, corporate charter, operations agreement or other such document as well as a breakdown of all partners, shareholders, members, etc. with their ownership percentages.

(f) The identity of the applicant(s) who will be in actual charge of the day-to-day operation of the retail liquor store.

(g) Certification that the applicant or applicant group or any employee, now intended or in the future, that will be employed to manage or assist in the operation of the retail liquor store has not been convicted

of a felony within the ten (10) year period immediately preceding the date of the application of any violation of any state or federal law, or of any violation of any municipal ordinance involving alcohol related offenses. This certification shall be accompanied by a criminal background check or consent to and request for same for each applicant, applicant group and management employee of the liquor store. The cost of obtaining such criminal background checks shall be borne and paid by the applicant, applicant group and employer of the management employee

(h) Name of the retail liquor store proposed in the application and the zoning designation applicable to such location.

(i) Address of the retail liquor store proposed in the application.

(j) A site plan drawn to a scale by a licensed surveyor or engineer, of not less than one inch equals twenty feet (1" = 20') that includes the following information:

(i) The shape, size, and location of the lot where the retail liquor store is to be located.

(ii) The shape, size, height, number of floors and location on the lot of all buildings whether they are to be erected, altered, moved or existing upon the lot.

(iii) Off-street parking spaces and off-street loading/unloading area.

(iv) Ingress and egress to lot.

(v) Location of all doors accessing the building with designation of public access to building and designation of any landscaping, walls, fencing or other such possible obstruction limiting visual access to building entrances.

(vi) Designation of zone(s) of lot and adjoining properties.

(vii) Owners of adjoining properties, designation of use, and name of any business.

(viii) The identification of every parcel within two hundred feet (200') of the lot which the liquor store is to be operated, indicating ownership thereof, and the locations of structures situated thereon and the use being made of every such parcel.

(ix) Lighting of building exterior and parking area.

(k) Certification by the applicant stating that the premises of the proposed retail liquor store are in full compliance with the distance requirements established in subsection (8) below.

(l) The agreement of each applicant to comply with state and federal statutes, Unicoi regulations governing retail liquor stores, and all state rules and regulations with reference to the sale of alcoholic beverages.

(m) Verification that the applicant has secured the location for the business at the location submitted in the application.

(n) A time schedule detailing any construction or renovation of the store building, improvements to grounds, and store opening date.

(o) Copies of all documentation required by the Tennessee Alcoholic Beverage Commission for license application to the State of Tennessee for a retail liquor store license.

(p) Applicant's business plan for the retail liquor store including, but not limited to, start-up funding, cost of establishing and opening the business and projected sales for the first twenty-four (24) months of operation.

(q) The application form shall be signed and verified by each person who has any interest in the license either as owner, partner, stockholder, director, officer or otherwise.

(r) The application for certificate of compliance shall be submitted with payment of the first year of the two (2) year certificate's non-refundable annual application fee of five hundred dollars (\$500.00). On the one (1) year anniversary of the issuance of the certificate of compliance the second annual application fee shall be due and payable and must be paid to the town recorder not later than thirty (30) days after the one (1) year anniversary of issuance of the certificate of compliance.

(6) Application advertising requirements. Before a certificate of compliance application for a retail liquor store may be considered by the planning commission and then the board of mayor and aldermen, whether the application is for a transfer of an existing license to a new location or for a new license, the applicant must place at least one (1) advertisement, at his own expense, in a newspaper of general circulation in the town, a minimum of seven (7) days prior to the application being initially reviewed by the Unicoi Planning Commission, with the published notice, including the following information:

(a) Name and address of applicant;

(b) Nature and purpose of application;

(c) Location/address of store location; and

(d) Date the application is proposed to be reviewed by the planning commission.

(7) Review and consideration of applications for certificate of compliance. Applications to the town for a certificate of compliance needed to license a retail liquor store shall be submitted to the town recorder. The town recorder shall review the documentation provided to see that all information requested has been submitted and appears to be complete. Although the recorder will initially review materials submitted for compliance, and will to the extent possible identify insufficient information, it is responsibility of the applicant to provide all of the information required regardless of the recorder's review. When the recorder does identify insufficient information, the applicant shall have until the materials are sent to the planning commission to complete the application packet. An application shall not be deemed "filed" until it

contains all of the information requested. After the initial review, a date shall be determined to send the full application to the planning commission for consideration. The applicant must provide proper notification in an acceptable publication at least seven (7) days in advance of the meeting in which the planning commission will consider the application and supply unto the Town of Unicoi a copy of the newspaper notice with paper header showing compliance with this requirement. In reviewing the application, the planning commission shall consider at least the following:

(a) Whether the application meets all state and federal requirements.

(b) When there is more than one (1) application for a certificate of compliance in the same overlay zone area or more applications than the maximum number of retail liquor store licenses authorized by this chapter, the planning commission shall consider at least the following without necessity of regard for the order in which the applications were filed:

(i) The retail store locations submitted and the considerations of safety, lighting, ingress and egress, size of store, impact on traffic patterns, and ease of enforcement relative to each location.

(ii) The most suitable circumstances and location in consideration of the health, safety and welfare of the citizens of Unicoi and the lawful operation of an off-premises retail liquor store.

(iii) The ability of the applicant to obtain the necessary license from the state, and to construct, renovate or otherwise develop the premises necessary for the retail store and open it to the public in a timely manner.

(iv) The compatibility of the building and landscaping with the surrounding properties, including building materials, roof pitch, etc., as well as compatibility with any Town of Unicoi plan and vision for commercial areas of Unicoi.

(v) An applicant for a retail liquor license shall appear at the planning commission considering the applicant's application for certificate of compliance.

(c) Initially, the town will advertise, at a convenient time, the projected schedule for adoption of the ordinance governing location, number, and other considerations regulating retail liquor stores and the issuance of a certificate of compliance. The notice will also establish a date the ordinance will become effective which will be the first date to receive applications. The projected meeting date of the planning commission in which liquor store applications will be reviewed shall also be included in the notice, as well as the date the board of mayor and aldermen will act on the applications so that the application, review, and

approval/denial process falls within the sixty (60) day requirement for action outlined in *Tennessee Code Annotated*, § 57-3-208.

(d) If a retail liquor store becomes available in an existing zone area or a new store zone is established, any voluntary request to transfer an existing and operating store location shall be evaluated and considered based on the criteria in subsection (7)(b) the same as any other application submitted.

(e) Applications, and all matters submitted with or as a part of such applications become at the time they are submitted the sole and exclusive property of the town and constitute public records open to public inspection.

(f) Because of the sixty (60) day requirement for board action on applications outlined in *Tennessee Code Annotated*, § 57-3-208, any application submitted that is not approved for a certificate of compliance shall be denied by the board of mayor and aldermen. Said applications, however, shall be held by the town until the retail liquor store(s) approved are open and operating. At that time, the application may be disposed of by the town. If the approved store is not licensed by the ABC or fails to open in a timely manner and loses its license, the applications on file for a certificate of compliance may be reactivated and considered submitted upon written request by the applicant.

(8) Restrictions on location of and access to retail liquor stores. No location for a retail store shall be approved on any premises within the town, except on premises that are:

(a) Zoned B-3, B-4 or PBD.

(b) Within a Retail Liquor Store (RLS) Overlay Zone and within the B-3, B-4 or PBD zones with one (1) and only one (1) retail store authorized per RLS Overlay Sub-District Zone area and no more than two (2) retail stores total within the Town of Unicoi in all of the RLS Overlay Sub-District zones. The number of permitted liquor stores and the number of sub-district zones may be modified from time to time by the board of mayor and aldermen.

(c) At least two hundred feet (200') from the nearest front entrance of any church, public or private school, daycare center, playground or park, recreational facility or residential buildings. For the purposes of measurement, the distance shall be determined from the center of the public entrance to the retail liquor store in a straight line the shortest most direct distance to the main entrance to the facilities and institutions listed. The restrictions set forth herein as to locations apply to conditions existing as of the time the application for a certificate is filed, and the future presence of any uses listed above in this subsection within the two hundred feet (200') distance requirement shall not be grounds for revocation of a license or denial of a certificate if a valid

license had been issued to any retail liquor store at the same location and the business has been in continuing operation since that date.

(d) Located in or developed with a building in which the retail liquor store is only on the ground floor.

(e) The retail liquor store shall have one (1) entrance for use by the public. Provided, however, in the event the building is located on a corner with building entrances and parking fronting on both intersecting streets the applicant may petition the Town of Unicoi for approval of a second public entrance to the retail liquor store. Such petition must be accompanied by all supporting documentation as is required for a second entrance to a retail liquor store under the statutes and regulations provided by the State of Tennessee.

(f) The retail liquor store must meet all Town of Unicoi regulations concerning commercial building and nothing shall be "grandfathered in" from a prior business location. Any non-conforming business premises must be renovated to current Town of Unicoi standards prior to the location of a retail liquor store on said premises.

(g) The minimum size for a retail liquor store within the Town of Unicoi shall be one thousand eight hundred (1,800) square feet.

(9) Number of stores. There shall, unless later modified by act of board of the mayor and aldermen, be only two (2) liquor stores within the Town of Unicoi and no more than one (1) liquor store may be located in any RLS Overlay Sub-District Zone. The board of mayor and aldermen retains the power and authority to modify the number of total retail liquor stores and the number and location of Overlay Sub-District Zones at any time.

(10) Restrictions on issuance of certificate of compliance. No original or renewal certificate of compliance shall be issued for any location until:

(a) An application has been filed with the town recorder.

(b) All requirements to obtain a certificate have been met, and the application complies with all restrictions as to location and number of retail licenses issued within Unicoi.

(c) A written certification by the applicant is submitted stating that the premises of the retail liquor store are in full and complete compliance with the distance requirements established in subsection (8) above.

(d) The application shall be signed and verified by each person to have an interest in the retail liquor store either as an owner, partner, member, stockholder or otherwise.

(e) The application has been reviewed and considered by the Unicoi Planning Commission and recommended to the board of mayor and aldermen.

(f) The application has been considered at a regular or called meeting of the Unicoi Board of Mayor and Aldermen and approved by majority vote.

(11) Term of certificate of compliance. Once issued by the board of mayor and aldermen, a certificate of compliance required by *Tennessee Code Annotated*, § 57-3-208 shall be valid for two (2) years. A new certificate therefore is required every other year, to be submitted to the ABC with application for the annual license renewal.

(12) Full and accurate disclosure required. (a) It shall be unlawful for any person to have ownership in or participate, either directly or indirectly, in the profits of any retail store license under this chapter, unless his interest in the business and the nature, extent and character thereof shall appear on the application for a certificate of compliance; or if the interest is acquired after the issuance of a license, unless it is fully disclosed to and approved by the board of mayor and aldermen (town recorder). Where such interest is owned by such a person on or before the application for any certificate, the burden shall be upon such person to see that this section is not violated, whether he signs or prepares the application, or whether the same is prepared by another; or if the interest is acquired after the issuance of the certificate, the burden of disclosure of the acquisition of such interest shall be upon the seller and the purchaser.

(b) Misrepresentation of a material fact, or concealment of a material fact, required to be shown in the application for a license or certificate shall be a violation of this chapter. The board of mayor and aldermen may refuse to issue a certificate if, upon investigation, the town finds that the applicant for a certificate has concealed or misrepresented in writing or otherwise any material fact or circumstance concerning the operation of the retail liquor store, or if the interest of any applicant in the operation of the business is not truly stated in the application, or in case of any fraud or false swearing by any applicant concerning any matter related to the operation of the business. All data, written statements, affidavits, evidence, or other documents submitted in support of an application are part of the application.

(c) If the provisions of this section and chapter are alleged to have been violated, the board of mayor and aldermen may by majority vote revoke any certificate which has been issued, after first providing an opportunity for the applicant(s) or licensee to refute such allegations and/or show cause why the certificate should not be revoked.

(13) Regulation of retail sales. Retailers licensed under *Tennessee Code Annotated*, § 57-3-204 shall comply with the regulation of retail sales established in *Tennessee Code Annotated*, § 57-3-406 included, but not limited to, the following:

(a) Hours and days of operation. No retailer shall sell or give away or otherwise dispense any alcoholic beverages except between the hours of 8:00 A.M. and 11:00 P.M. on Monday through Saturday, but not the holidays specified below. No retailer shall sell or give away alcoholic

beverages between 11:00 P.M. on Saturday and 8:00 A.M. on Monday each week.

(b) Sale during holidays. No retailer shall sell or give away alcoholic beverages on Thanksgiving Day, Christmas Day, New Year's Day, Independence Day (Fourth of July), and Labor Day.

(c) No audible radio, pinball machine, slot machine, video game, audible music machine, or other amusement devices which tend to cause persons to congregate in such place shall be maintained in any retail liquor store. This provision shall not prevent the broadcast of "elevator" or background music or personal music devices heard only by one person.

(d) No alcoholic beverages shall be sold or given away for consumption on the premises of the retailer and no cups, ice or other supplies for drinking items shall be sold at a retail liquor store within the Town of Unicoi.

(e) Retail liquor stores shall only sell alcoholic beverages.

(f) The sale and delivery of alcoholic beverages at a retail liquor store shall be confined to the building premises of the licensee, and no curbside service or drive-thru service is permitted.

(14) License display. Persons granted a license to carry on any business or undertaking contemplated herein shall, before being qualified to do business, display and post and keep displayed and posted, in the most conspicuous place in their premises, such license.

(15) Advertising/signage. Advertising by a licensee, and signs, displays, posters and designs intended to advertise any alcoholic beverages, shall be governed by the applicable rules of the Tennessee Alcoholic Beverage Commission and/or the sign provisions and restrictions of the underlying zoning district as may be specified in the Unicoi Sign and Zoning Ordinances.

(16) Transfer of license and certificate. The holder of a license for a retail liquor store may not sell, assign or transfer such license to any other person, and such license shall be good and valid only for the twelve (12) months after the same was issued. Except as expressly authorized, there shall be no transfer of any license from one (1) location to another. An application for a retail liquor store license from the alcoholic beverage commission resulting from a change in ownership or store location shall require a re-submittal of an application for a certificate of compliance.

(17) Inspection fee levied. For the purpose of providing a means of regulating the sale of alcoholic beverages within the town, and to provide means of enforcing the provisions of this chapter, there is hereby levied and imposed an inspection fee of five percent (5%) of the wholesale price of all alcoholic beverages sold by wholesalers to any licensed retail liquor store within the corporate limits of Unicoi. Collection of this inspection fee by wholesalers shall be undertaken under regulations established in *Tennessee Code Annotated*, §§ 57-3-501 to 57-3-503, including, but not limited to, the following:

(a) The inspection fee is imposed upon licensed retailers but is collected by wholesalers.

(b) The inspection fee shall be collected by the wholesaler at the time of the sale or at the time the retailer makes payment for the delivery of the alcoholic beverages, and said fee may be added by the wholesaler to the invoice for alcoholic beverages sold to the licensed retailers.

(c) Each wholesaler making sales to retailers located within the Unicoi town limits shall make monthly payments to the town of the inspection fees invoiced.

(d) Monthly payments shall be paid by the twentieth (20th) day of the month following which sales were made, and shall be accompanied with monthly reports that include the information required in *Tennessee Code Annotated*, § 57-3-503.

(e) Wholesalers collecting and remitting inspection fees to the town shall be entitled to reimbursement for this collection service, a sum equal to five percent (5%) of the total amount of the inspection fees collected, and such reimbursement may be deducted and shown on the monthly report to the Town of Unicoi.

(f) Failure to collect and/or report and/or to pay the inspection fee collected by the day required shall result in a penalty of ten percent (10%) of the fee due, which shall also be paid to the town.

(g) The Town of Unicoi has the authority to audit the records of wholesalers supplying liquor and reporting sales to retail liquor stores in Unicoi to determine the accuracy of reports.

(h) Nothing within this subsection (17) herein shall relieve the licensee of the obligation for the payment of the inspection fee, and it shall be the licensee's duty to see that the payment of the inspection fee is made to the town recorder.

(i) The inspection fee levied in this chapter shall be in addition to any general gross receipts, sales and other general taxes applicable to the sale of alcoholic beverages, and shall not be in substitution for such taxes.

(18) Surrender of license if business discontinued. Whenever any licensee discontinues business for any reason, he shall immediately notify the alcohol beverage commission and the town.

(19) Record in writing and surrender the license and certificate of compliance.

(20) Revocation procedures. Whenever the board of mayor and aldermen find that a licensee has been, or is, in violation of the *Tennessee Code Annotated*, title 57, chapter 1, the rules and regulations of the alcoholic beverage commission, or the provisions of this chapter, the board shall certify such violation(s) to the State Alcoholic Beverage Commission, in such form as the commission requires. The alcoholic beverage commission shall have the responsibility for determining whether the offender's license shall be revoked.

The board of mayor and aldermen, upon determination of violations of state or local regulations governing the retail sale of alcoholic beverages may revoke the town issued certificate of compliance, and shall communicate said revocation to the alcoholic beverage commission for possible further action. (Ord. #2012-219, Jan. 2013, as amended by Ord. #2020-276, August 2020)

8-209. Violations and penalty. Any violation of this chapter shall constitute a civil offense and shall, upon conviction, be punishable by a penalty under the general penalty provision of this code. Upon conviction of any person under this chapter, it shall be mandatory for the town judge to immediately certify the conviction, whether on appeal or not, to the Tennessee Alcoholic Beverage Commission.

TITLE 9

BUSINESS, PEDDLERS, SOLICITORS, ETC.¹

CHAPTER

1. MISCELLANEOUS.
2. CHARITABLE SOLICITORS.
3. CABLE TELEVISION

CHAPTER 1

MISCELLANEOUS

SECTION

- 9-101. Asphalt plants prohibited.
9-102. Cement plants prohibited.

9-101. Asphalt plants prohibited. Asphalt manufacturing, producing, or recycling plants and industries within the town limits of Unicoi are prohibited. (2004 Code, § 9-101)

9-102. Cement plants prohibited. Cement manufacturing or producing plants and industries within the town limits of Unicoi are prohibited. (2004 Code, § 9-102)

¹Municipal code references
Beer regulations: title 8.
Zoning: title 14 and Appendix A.

CHAPTER 2**CHARITABLE SOLICITORS****SECTION**

9-201. Roadblocks prohibited.

9-201. Roadblocks prohibited. (1) Fund raising solicitations located upon the public streets and thoroughfares of the Town of Unicoi, commonly known as roadblocks, are hereby declared illegal.

(2) The declaration of roadblocks as illegal within the town's public streets and thoroughfares specifically does not include a once annual roadblock conducted by a Shrine Club or Shrine Clubs collectively to benefit children's hospitals. It shall be legal for a Shrine Club or Shrine Clubs collectively once a year to conduct a roadblock upon the public streets and thoroughfares of the Town of Unicoi for Shrine Paper sales to benefit Shrine children's hospitals. (2004 Code, § 9-201, as amended by Ord. #11-203, March 2011)

CHAPTER 3**CABLE TELEVISION****SECTION**

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television shall be furnished to the Town of Unicoi and its inhabitants under franchise granted to Comcast Cablevision of the South by the board of mayor and aldermen of the Town of Unicoi, Tennessee. The rights, powers, duties and obligations of the Town of Unicoi and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon, the parties concerned.¹ (2004 Code, § 9-301)

¹The cable television franchise agreement is available in the recorder's office.

TITLE 10**ANIMAL CONTROL****CHAPTER****1. BARKING AND AT-LARGE DOGS****CHAPTER 1****BARKING AND AT-LARGE DOGS****SECTION**

10-101. Regulation of barking and at-large dogs.

10-101. Regulation of barking and at-large dogs. (1) It shall be unlawful for the owner of any dog to fail to keep such animal(s) under restraint or to permit such animal to run at-large upon the streets and public ways of the town or upon the property of others without the consent of the property owner.

(2) At-large means that a dog is off the premises of the owner, and not on a leash or otherwise under the immediate control of a person physically capable of restraining the dog.

(3) Animal control officers, the town recorder, or other designees of the town mayor and/or any public law enforcement officer are all empowered to enforce this section. These officials and officers shall have the authority to act in their official capacity in investigating complaints, impounding, issuing citations, and taking other lawful actions as required to the enforcement of these regulations.

(4) It is a violation of this section for any person to interfere with any animal control officer or other enforcement official in the performance of his duties in the enforcement of this section.

(5) Violation of this section shall constitute a Class C misdemeanor and may, in the discretion of the enforcement officer or official, result in a citation to municipal court. The penalty for each violation and/or continuing day of violation of the section upon conviction shall be a fifty dollar (\$50.00) fine plus court costs.

(6) Each day that one (1) or more violations of this section exists or continues to exist shall constitute a separate violation.

(7) In addition to other remedies provided herein, the enforcing officers and officials set forth above shall have the authority to seize, impound and humanely confine any dog that is kept in such a manner as to repeatedly violate the provisions of this section. Redemption and disposition of any dog so impounded and confined shall be in accordance with the procedures of the Unicoi County Animal Shelter.

(8) Any animal control officer or other enforcement official may also, or in lieu of impoundment, or initial citation, issue to the owner a notice of violation. Such notice shall impose upon the owner a civil monetary penalty of fifty dollars (\$50.00) which shall be paid to the town recorder within ten (10) days after the notice in full satisfaction of the assessed penalty. Appeal of such notice of violation shall be to the municipal court.

Failure to pay this notice of violation without just cause and a successful appeal thereof shall constitute a violation of this section. In the event that such penalty is not paid within the time period prescribed, a citation shall issue for appearance before the municipal court for violation of the section. (2004 Code, § 10-101, as amended by Ord. #2012-211, Feb. 2012)

TITLE 11

MUNICIPAL OFFENSES¹

CHAPTER

1. LITTERING

CHAPTER 1

LITTERING

SECTION

11-101. Disposing of trash, etc.

11-102. Violations and penalty.

11-101. Disposing of trash, etc. Depositing, dropping without retrieving, throwing out, or other improper discarding of litter, trash and any other type of non-organic waste or debris in or on the rights-of-way, property of the town and/or property of others within the Town of Unicoi, Tennessee is hereby prohibited. (2004 Code, § 11-101)

11-102. Violations and penalty. Violation of this chapter shall be punishable as a Class C misdemeanor, with a fine of fifty dollars (\$50.00) for each incident. (2004 Code, § 11-102)

¹Municipal code references

Road and street regulations: title 16, chapter 1.

Speed limits: title 15, chapter 1.

TITLE 12

BUILDING, UTILITY, ETC. CODES¹

CHAPTER

1. BUILDING CODE.

CHAPTER 1

BUILDING CODE

SECTION

12-101. Adoption of building code statutes.

12-102. Codes enforcement officer.

12-103. Building permit.

12-104. Violations and penalty.

12-101. Adoption of building code statutes. By the authority granted under *Tennessee Code Annotated*, §§6-54-501 through 6-54-503, and § 6-54-506, Town of Unicoi hereby adopts by reference as if fully set forth in this section, those titles and sections of the 2018 *International Building Codes* as designated by ordinance and maintained in the recorder's office of the Town of Unicoi, which sections are incorporated herein by reference. (Ord. #Ord. #2021-295, July 2021)

12-102. Codes enforcement officer. The Town of Unicoi has designated a building inspector and a member of the Town of Unicoi Police Department to enforce these and other codes of the Town of Unicoi. (Ord. #2021-287, June 2021)

12-103. Building permit. The building permit issued for construction shall be equal to the cost of all required inspections, including all re-inspections due to failing any required inspection. (Ord. #2021-287, June 2021)

12-104. Violations and penalty. Any person violating any provision of this chapter shall be guilty of a Class C misdemeanor, and upon conviction shall be fined not less than two dollars (\$2.00) nor more than fifty dollars (\$50.00) plus municipal court costs for the first offense. Each day of violation after the first day of violation shall constitute a s separate offense and a fine of

¹Municipal code reference

Underground utility line specifications: § 18-201

not less than (\$2.00) nor more than fifty dollars (\$50.00). (Ord. #2021-287, June 2021)

TITLE 13

PROPERTY MAINTENANCE REGULATIONS

CHAPTER

1. REBUILDING, REMOVAL OF BUILDINGS.
2. PROTECTION AND PRESERVATION STANDARDS.

CHAPTER 1

REBUILDING, REMOVAL OF BUILDINGS

SECTION

- 13-101. Regulation of the rebuilding and/or removal of burned out or deteriorated buildings and structures.

13-101. Regulation of the rebuilding and/or removal of burned out or deteriorated buildings and structures. (1) In the event real property, structures or improvements thereupon deteriorates, burns or is otherwise destroyed and is therefore no longer inhabitable and/or usable, it shall be required that the property owner submit to the Town of Unicoi within ninety (90) days of the burning of the property or the property reaching such a state of deterioration, or within ninety (90) days of notice received from the Town of Unicoi to provide a report, the owner must submit a detailed report on a form supplied by the town recorder of the Town of Unicoi stating the time within which the property owner plans to rebuild or remove the uninhabitable or unusable structure from the property, insurance status of the property and any other pertinent factors affecting the property.

(2) In the event the owner should need additional time to complete the plan beyond that specified in the original plan, the property owner shall appear before the Unicoi Planning Commission, from time to time, but, in no event less than every sixty (60) days throughout the period of cleaning up of debris and/or rebuilding the building, or removing the building, or removing the deteriorated property improvements. The owner shall keep the Unicoi Planning Commission advised and aware of any other conditions affecting the resolution of issues concerning the property.

(3) In the event the property owner does not comply with the provisions of this section or complete the plan for rebuilding, cleaning up debris and/or removal of deteriorated improvements, the Town of Unicoi shall, after notice to the property owners, remove the debris and deteriorated improvements to the affected property and shall charge back to the property owner the cost of such remediation. The property owner failing to comply with the remediation plan shall pay all costs of remediation incurred by the Town of Unicoi, including, but not limited to, cost of removal, grading, repairs, seeding, landfill fees,

attorney's fees and costs. Failure to do so may result in a lien placed on the property. (Ord. #2014-235, July 2014)

CHAPTER 2

PROTECTION AND PRESERVATION STANDARDS

SECTION

- 13-201. Littering generally.
- 13-202. Accumulation of rubbish.
- 13-203. Weeds and other vegetation.
- 13-204. Poisonous vines and injurious plants.
- 13-205. Vehicular and pedestrian traffic view obstruction prohibited.
- 13-206. Overgrown lots.
- 13-207. Exterior painting and renovations.
- 13-208. Unsafe property conditions prohibited.
- 13-209. Transfer of title.
- 13-210. Additional regulations.
- 13-211. Depositing of vegetation, grass clippings, cuttings, or similar material on rights-of-way within the Town of Unicoi.
- 13-212. Violations and penalty.

13-201. Littering generally. It is unlawful for any person to throw or deposit or permit to be deposited or scattered upon any sidewalk, alley, street, bridge or public passageway, or rubble of any kind or to allow these items to accumulate upon public property immediately adjacent to and abutting that person's private property and between the private property and the public streets or alleyways upon which the property fronts. It is the responsibility of all owners and occupants of private property to keep abutting rights-of-way free and clear of rubbish, trash, etc. It is further the responsibility of private property owners and occupants to keep the rights-of-way upon which the property fronts mowed and clear of weeds, tall grass, etc. Littering, allowing the accumulation of litter and the failure to clean up and remove such litter is a violation of this section and violators are subject to the general penalty provisions of this code. (Ord. #2020-271, Feb. 2020)

13-202. Accumulation of rubbish. It is unlawful for any person owning, leasing, occupying, or having control of property, regardless of whether the property is a vacant lot or contains any form of structure to permit the accumulation upon the property of garbage, trash, rubbish or other refuse in any form or nature, including but not limited to inoperable, untagged automobiles without tires whether or not set on blocks. All such accumulations are declared to be a public nuisance. The failure to clean up and remove such rubbish is a violation of this section and violators are subject to the general penalty provisions of this code. (Ord. #2020-271, Feb. 2020)

13-203. Weeds and other vegetation. (1) It is unlawful for any person or other entity owning, leasing, occupying or having control of property in the town, regardless of whether the property is vacant or contains any form of structure, to permit the growth upon the property of weeds, grass, brush and all other rank or noxious vegetation to a height greater than twelve inches (12") when the growth is within two hundred feet (200') of other improved and/or occupied property or is within two hundred feet (200') of the right-of-way of any street, thoroughfare, or highway within the town.

(2) Excluded from these provisions are tracts of land of five (5) acres or larger in unplatted, undeveloped areas (i.e., not in a subdivision approved by the Town of Unicoi Planning Commission, and the plat of which is recorded with the register of deeds, or in a subdivision developed prior to the creation of the planning commission, a plat of which is of record with the register of deeds) or tracts that are being used for current agricultural purposes.

(3) Property not exempt due to its size or the active practice of agriculture which is contiguous to parcel(s) of land that front on public streets or roadways, or contain any improvements shall be cleared of all weeds, tall grass and other noxious vegetation in the area within two hundred feet (200') of the property line of the developed property adjoining the subject tract and/or front property line adjoining the right-of-way of any street or roadway.

(4) As to these naturally wooded areas, containing trees, the clearing requirements of this section extend only to the line of woods or trees adjoining developed (improved) property or public thoroughfares. (Ord. #2020-271, Feb. 2020)

13-204. Poisonous vines and injurious plants. It is also unlawful for any person or other entity to permit poison vines or plants injurious because of pollination or a menace to health, to grow in the Town of Unicoi where they may cause injury or discomfort to any person, regardless of height, which plants are hereby declared to be a public nuisance. The failure to destroy poison vines or other such plants constitutes a violation of this section and violators are subject to the general penalty provisions of this code.

13-205. Vehicular and pedestrian traffic view obstruction prohibited. It is unlawful to plant, maintain, or allow any vegetation, slu-ubbery, hedge rows, etc., so near or upon public road rights-of-way as to obstruct the view of a person driving in the roadway or otherwise constitute a hazard to vehicular and/or pedestrian traffic. Failure of owners of property adjoining the rights-of-way or owners of property upon which the vegetation exists to trim or remove it is guilty of a violation of this section and violators are subject to the general penalty provisions of this code. (Ord. #2020-271, Feb. 2020)

13-206. Overgrown lots. The failure to cut and destroy, weeds, grass, brush and all other rank or noxious vegetation not subject to the exclusions above constitutes a violation of this section and violators are subject to the general penalty provisions of this code. (Ord. #2020-271, Feb. 2020)

13-207. Exterior painting and renovations. It is unlawful to begin exterior painting, exterior renovation, facade changes, or other changes to the exterior of buildings within the Town of Unicoi and then fail to finish such changes within the next six month period without first obtaining from the Town of Unicoi Planning Commission approval for good cause of such extended exterior renovation and changes. Beginning such exterior painting, exterior renovation, facade changes or other changes to the exterior of buildings within the Town of Unicoi and then failing to finish such changes within the next six (6) month period without first obtaining from the Town of Unicoi Planning Commission approval for good cause of such extended exterior renovation and changes is a violation of this section and violators are subject to the general penalty provisions of this code. (Ord. #2020-271, Feb. 2020)

13-208. Unsafe property conditions prohibited. It is unlawful to maintain improved property within the Town of Unicoi in a dilapidated or unsafe condition as prohibited by *Tennessee Code Annotated*, All regulatory and enforcement provisions of Tennessee Code concerning dilapidated or unsafe buildings are adopted within the Town of Unicoi. Maintaining improved property in dilapidated or unsafe condition is a violation of this section and violators are subject to the general penalty provisions of this code. (Ord. #2020-271, Feb. 2020)

13-209. Transfer of title. It is unlawful to transfer title to property that has a notice of violation posted on it violators are subject to the general penalty provisions of this code. (Ord. #2020-271, Feb. 2020)

13-210. Additional regulations. The provisions of this chapter include and are supplemental to other regulations and provisions adopted by the Town of Unicoi or allowed by state law.

The Town of Unicoi hereby specifically adopts by reference *Tennessee Code Annotated*, § 6-54-113; *Tennessee Code Annotated*, §§ 13-21-101 through 13-21-110, finding that conditions of the character described in *Tennessee Code Annotated*, § 13-21-102 exist within the Town of Unicoi, *Tennessee Code Annotated*, §§ 13-21-301 through 13-21-314, *Tennessee Code Annotated*, §§ 55-16-103 through 109; and *Tennessee Code Annotated*, § 68-120-117 as fully as if typed herein verbatim. (Ord. #2020-271, Feb. 2020)

13-211. Depositing of vegetation, grass clippings, cuttings, or similar material on rights-of-way within the Town of Unicoi. It is unlawful for any person to litter, place, throw, track or allow to fall on any

street, alley, or sidewalk or other public right-of-way within the Town of Unicoi, Tennessee, vegetation, grass clippings, cuttings or similar material, without retrieving, and to allow the same to remain after the completion of normal maintenance and mowing. (Ord. #2021-299, Nov. 2021)

13-212. Violations and penalty. Violators of this chapter shall be subject to a fifty dollar (\$50.00) fine plus the cost for remedial measures necessary to bring the property into compliance with the requirements set forth herein. (Ord. #2021-299, Nov. 2021)

TITLE 14**ZONING AND LAND USE CONTROL****CHAPTER**

1. MUNICIPAL PLANNING COMMISSION.
2. ZONING ORDINANCE.
3. BOARD OF ZONING APPEALS.
4. MUNICIPAL FLOODPLAIN ZONING ORDINANCE.
5. MOBILE HOME PARK REGULATIONS.
6. BILLBOARDS.

CHAPTER 1**MUNICIPAL PLANNING COMMISSION****SECTION**

- 14-101. Creation and membership.
- 14-102. Organization, powers, duties, etc.
- 14-103. Objective.
- 14-104. Officers and their duties.
- 14-105. Election of officers.
- 14-106. Meetings.
- 14-107. Order of business.
- 14-108. Other.
- 14-109. Hearings.
- 14-110. Records to be kept.
- 14-111. Bylaws of the planning commission.

14-101. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, § 13-4-101 the planning commission shall consist of up to nine (9) members: one (1) of which shall be the mayor of the Town of Unicoi; one (1) shall be a member of the board of mayor and aldermen, selected by the mayor, and the remaining members shall be appointed by the mayor. The municipal planning commission members shall be paid on such occasions as they individually appear for a regular or called meeting, shall be paid for such meeting the stipend as has been established by the ordinance adopting the annual budget of the Town of Unicoi, Tennessee. The terms of the members shall be staggered, with term expirations designated by the mayor. The terms of the mayor and the representative from the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (2004 Code, § 14-101, as amended by Ord. #2021-288, June 2021)

14-102. Organization, powers, duties, etc. The planning commission shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13, chapter 4, and the Town of Unicoi Planning Commission by-laws, as adopted by ordinance. (2004 Code, § 14-102)

14-103. Objective. The objective and purposes of the Unicoi Planning Commission shall be as set forth in *Tennessee Code Annotated*, §§ 13-4-101 to 13-4-309, and amendments and supplements thereto, and those powers and duties delegated to the planning commission by the board of mayor and aldermen by ordinance, in accordance with the above mentioned enabling law. (2004 Code, § 14-103)

14-104. Officers and their duties. (1) The officers of the planning commission shall consist of chairman, vice chairman and secretary-treasurer.

(2) The chairman shall preside at all meetings and hearings of the planning commission and have the duties normally conferred by parliamentary usage of such officers.

(3) The chairman shall be one (1) of the appointive members of the planning commission. He shall have the privilege of discussing all matters before the planning commission.

(4) The vice chairman shall be one (1) of the members of the planning commission and shall act for the chairman in his absence.

(5) The town recorder, with the assistance of the town's planning consultant, shall keep the minutes and records of the planning commission, prepare with the chairman, the agenda of regular and special meetings, provide notice of meetings to planning commission members, arrange proper and legal notice of hearings, attend to correspondence of the commission and such other duties as are normally carried out by a secretary. (2004 Code, § 14-104, as amended by Ord. #2021-295, July 2021)

14-105. Election of officers. (1) Nomination of officers shall be made from the floor and officers shall be elected at the annual organization meeting, which shall be held in the month of March of each year.

(2) The candidate for each office receiving a majority vote of the members present at the planning commission shall be declared elected.

(3) All officers shall be elected for a term of one (1) year and all officers shall be eligible to succeed themselves.

(4) Vacancies in offices shall be filled immediately for the unexpired term by regular election procedure. (2004 Code, § 14-105)

14-106. Meetings. (1) Meetings shall be held on an as-needed basis and as approved by the chairman of the planning commission, on the first Monday of each month, at 5:30 P.M. at the Unicoi Town Hall. Further the board of mayor

and aldermen amend the bylaws of the planning commission to provide that the planning commission meets on an as-needed basis as approved by the chairman of the planning commission.

(2) A quorum of the membership of the planning commission shall be a majority of the members. A majority of those present in voting shall be required to pass a motion.

(3) All plans, reports and recommendations of the planning commission must be approved by at least a majority of those members present and voting. The chairman will be a non-voting commissioner, with the exception of voting to tie break.

(4) A record of the vote of each member on each question shall be kept as part of the minutes except when the vote is unanimous.

(5) Special meetings may be called by the chairman. It shall be the duty of the chairman to call such a meeting when requested to do so in writing by a majority of the members of the planning commission. The notice of such a meeting shall specify the purposes of such a meeting and no other business may be considered except by unanimous consent of the commission. The town recorder shall notify all members of the commission in writing, in advance of such special meeting.

(6) All meetings at which official action is taken shall be open to the general public. (2004 Code, § 14-106, as amended by Ord. #2022-301, Feb. 2022)

14-107. Order of business. The order of business at regular meetings shall be:

- (1) Roll call;
- (2) Reading of minutes of previous meeting;
- (3) Recognition of persons having business with the commission;
- (4) Old business;
- (5) New business; and
- (6) Adjournment. (2004 Code, § 14-107)

14-108. Other. (1) The planning commission may appoint such employees and staff as it may deem necessary for its work and may contact the state planning office for assistance as it may require.

(2) The expenditures of the commission shall be within the amounts appropriated for the purpose by the board of mayor and aldermen in the current budget.

(3) Any member not in attendance at three (3) consecutive meetings will be automatically removed from the commission. (2004 Code, § 14-108)

14-109. Hearings. (1) In addition to those required by law, the commission may at its discretion hold public hearings when it decides that such hearings will be in the public interest.

(2) Notice of such hearings shall be published in a newspaper of general circulation within the county prior to the date of such public hearing.

(3) The case before the commission shall be presented in summary by the chairman or a designated member of the commission and parties in interest shall have privilege of the floor. No statement shall be recorded or sworn to as evidence for any court of law without notice to the parties. (2004 Code, § 14-109)

14-110. Records to be kept. A record shall be kept of those speaking before the commission. (2004 Code, § 14-110)

14-111. Bylaws of the planning commission. Bylaws of the planning commission of the Town of Unicoi shall be subject to amendment by ordinance, are maintained in the office of the city recorder and are incorporated herein by reference. (Ord. #2021-295, July 2021)

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 Town of Unicoi shall be governed by Ord. #95-20¹, titled "Zoning Ordinance, Unicoi, Tennessee," and any amendments thereto. (2004 Code, § 14-201)

¹The zoning ordinance (and any amendments thereto) are available in the office of the recorder.

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

CHAPTER 3

BOARD OF ZONING APPEALS¹

SECTION

- 14-301. Creation and membership.
- 14-302. Organization, powers, duties, etc.
- 14-303. Bylaws of the board of zoning appeals.

14-301. Creation and membership. Pursuant to the provisions of *Tennessee Code Annotated*, §§ 13-7-205 to 13-7-207, the board of zoning appeals shall consist of five (5) members: one (1) of which shall be the mayor of the Town of Unicoi; one (1) shall be a member of the board of mayor and aldermen, selected by the mayor; and the remaining members shall be appointed by the mayor. The board of zoning appeals members shall be paid on such occasions as they individually appear for a regular or called meeting of the board of zoning appeals which does not immediately follow their individual service on the municipal planning commission. The payment as aforesaid for service on the board of zoning appeals shall be the meeting stipend as has been established by the ordinance adopting the annual budget of the Town of Unicoi, Tennessee. The terms of the members appointed shall be for four (4) years. The terms of the mayor and the representative from the board of mayor and aldermen shall run concurrently with their terms of office. Any vacancy in an appointive membership shall be filled for the unexpired term by the mayor, who shall also have the authority to remove any appointive member at his will and pleasure. (2004 Code, § 14-301, as amended by Ord. #2021-288, June 2021)

14-302. Organization, powers, duties, etc. The board of zoning appeals shall be organized and shall carry out its powers, functions, and duties in accordance with all applicable provisions of *Tennessee Code Annotated*, title 13, chapter 4, §§ 205 to 207 and the Town of Unicoi Board of Zoning Appeals By-Laws. (2004 Code, § 14-302)

14-303. Bylaws of the board of zoning appeals. Bylaws of the Board of Zoning Appeals of the Town of Unicoi shall be subject to amendment by ordinance, are maintained in the office of the city recorder and are incorporated herein by reference. (Ord. #2021-295, July 2021)

¹Municipal code reference

Board of zoning appeals: Appendix 1, article XI.

CHAPTER 4

MUNICIPAL FLOODPLAIN ZONING ORDINANCE¹

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*, §§ 13-7-201 to 13-7-212, 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 Town of Unicoi, Tennessee, Board of Mayor and Aldermen, do ordain as follows.

(2) Findings of fact.

(a) The Town of Unicoi, Tennessee, Mayor and its legislative body wishes to maintain eligibility in the National Flood Insurance Program (NFIP) and in order to do so must meet the NFIP regulations found in title 44 of the Code of Federal Regulations (CFR), ch. 1, § 60.3.

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

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

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

¹The Mitigation Plan for the Town of Unicoi (and any amendments) is of record in the office of the town recorder.

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

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

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

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

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

(4) Objectives. The objectives of this chapter are:

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

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

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

(d) To minimize prolonged business interruptions;

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

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

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

(h) To maintain eligibility for participation in the NFIP. (Ord. #2013-231, Oct. 2013)

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

(1) "Accessory structure" means a subordinate structure to the principal structure on the same lot and, for the purpose of this chapter, shall conform to the following.

(a) Accessory structures shall only be used for parking of vehicles and storage and not 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, collapse, and lateral movement, which otherwise may result in damage to other structures.

(e) Utilities and service facilities such as electrical and heating equipment shall be elevated or otherwise protected from intrusion of floodwaters.

(2) "Addition (to an existing building)" means any walled and roofed expansion to the perimeter or height of a building.

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

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

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

(6) "Area of special flood hazard." See "special flood hazard area."

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

(8) "Base Flood Elevation" (BFE). The elevation of surface water resulting from a flood that has a one percent (1%) chance of equaling or exceeding that level in any given year. The BFE is shown on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE.

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

(10) "Building." See "structure."

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

(12) "Elevated building" means a non-basement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by

means of solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwater, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

(13) "Emergency flood insurance program" or "emergency program" means the program as implemented on an emergency basis in accordance with the National Flood Insurance Act, 42 U.S.C. § 4056. 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.

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

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

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

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

(18) "Existing structures." See "existing construction."

(19) "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).

(20) "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.

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

(22) "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.

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

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

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

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

(27) "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.

(28) "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.

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

(30) "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.

(31) "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.

(32) "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.

(33) "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.

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

(35) "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.

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

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

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

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

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

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

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

(ii) Directly by the Secretary of the Interior.

(38) "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.

(39) "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.

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

(41) "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."

(42) "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.

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

(44) "Mean sea level" means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For the purposes of this chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

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

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

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

(49) "100-year flood." See "base flood."

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

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

(52) "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.

(53) "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.

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

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

(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 as designated by the Governor of the State of Tennessee at the request of FEMA to assist in the implementation of the NFIP for the state.

(59) "Structure" for purposes of this chapter, means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

(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) "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.

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

The market value of the structure should be:

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

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

The term does not, however, include either:

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

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

(63) "Variance" is a grant of relief from the requirements of this chapter.

(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 chapter 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, the North American Vertical Datum (NAVD) of 1988, or other datum, where specified, of floods of various magnitudes and frequencies in the floodplains of riverine areas. (Ord. #2013-231, Oct. 2013, modified)

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

(2) Basis for establishing the areas of special flood hazard. The areas of special flood hazard identified on the Town of Unicoi, Tennessee, as identified by FEMA, and in its Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM), Community Panel Numbers 47171C0015C, 47171C0020C*, 47171C0060C, 47171C0067C, 47171C0078C, 47171C0079C, 47171C0080C, and 47171C0085C*, 47171C0090C, dated September 3, 2008, along with all supporting technical data, are adopted by reference and declared to be a part of this chapter. (*Panel not printed – no special flood hazard areas).

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

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

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

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

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

(7) Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from

flooding or flood damages. This chapter shall not create liability on the part of the Town of Unicoi, Tennessee or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(8) Penalties for violation. Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance shall constitute a misdemeanor punishable as other misdemeanors as provided by law. Any person who violates this chapter or fails to comply with any of its requirements shall, upon adjudication therefore, be fined as prescribed by Tennessee statutes, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Unicoi, Tennessee from taking such other lawful actions to prevent or remedy any violation. (Ord. #2013-231, Oct. 2013)

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

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

(a) Application stage. (i) Elevation in relation to mean sea level of the proposed lowest floor, including basement, of all buildings where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(ii) Elevation in relation to mean sea level to which any nonresidential building will be floodproofed where base flood elevations are available, or to certain height above the highest adjacent grade when applicable under this chapter.

(iii) A FEMA floodproofing certificate from a Tennessee registered professional engineer or architect that the proposed nonresidential floodproofed building will meet the floodproofing criteria in § 14-405(1) and (2).

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

(b) Construction stage. Within AE Zones, where base flood elevation data is available, any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of, a

Tennessee registered land surveyor and certified by same. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

Within approximate A Zones, where base flood elevation data is not available, the elevation of the lowest floor shall be determined as the measurement of the lowest floor of the building relative to the highest adjacent grade. The administrator shall record the elevation of the lowest floor on the development permit. When floodproofing is utilized for a nonresidential building, said certification shall be prepared by, or under the direct supervision of, a Tennessee registered professional engineer or architect and certified by same.

For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the lowest floor elevation or floodproofing level upon the completion of the lowest floor or floodproofing.

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

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

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

(b) Review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344.

(c) Notify adjacent communities and the Tennessee Department of Economic and Community Development prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(d) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community FIRMs through the letter of map revision process.

(e) Assure that the flood carrying capacity within an altered or relocated portion of any watercourse is maintained.

(f) Record the elevation, in relation to mean sea level or the highest adjacent grade, where applicable, of the lowest floor (including basement) of all new and substantially improved buildings, in accordance with subsection (2) above.

(g) Record the actual elevation, in relation to mean sea level or the highest adjacent grade, where applicable to which the new and substantially improved buildings have been floodproofed, in accordance with subsection (2) above.

(h) When floodproofing is utilized for a nonresidential structure, obtain certification of design criteria from a Tennessee registered professional engineer or architect, in accordance with subsection (2) above.

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

(j) When base flood elevation data and floodway data have not been provided by FEMA, obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other sources, including data developed as a result of these regulations, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the Town of Unicoi, Tennessee FIRM meet the requirements of this chapter.

(k) Maintain all records pertaining to the provisions of this chapter in the office of the administrator and shall be open for public inspection. Permits issued under the provisions of this chapter shall be maintained in a separate file or marked for expedited retrieval within combined files. (Ord. #2013-231, Oct. 2013. modified)

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

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

(b) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Tennessee and local anchoring requirements for resisting wind forces;

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

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

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

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

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

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

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

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

(k) All new construction and substantial improvement proposals shall provide copies of all necessary federal and state permits, including § 404 of the Federal Water Pollution Control Act amendments of 1972, 33 U.S.C. 1344;

(l) All subdivision proposals and other proposed new development proposals shall meet the standards of § 14-405(2);

(m) When proposed new construction and substantial improvements are partially located in an area of special flood hazard, the entire structure shall meet the standards for new construction; and

(n) When proposed new construction and substantial improvements are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations, the entire structure shall meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation.

(2) Specific standards. In all areas of special flood hazard, the following provisions, in addition to those set forth in subsection (1) above, are required:

(a) Residential structures. In AE Zones where base flood elevation data is available, new construction and substantial

improvement of any residential building (or manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot (1') above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

Within approximate A Zones where base flood elevations have not been established and where alternative data is not available, the administrator shall require the lowest floor of a building to be elevated to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

(b) Nonresidential structures. In AE Zones, where base flood elevation data is available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than one foot (1') above the level of the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

In approximate A Zones, where base flood elevations have not been established and where alternative data is not available, new construction and substantial improvement of any commercial, industrial, or nonresidential building, shall have the lowest floor, including basement, elevated or floodproofed to no lower than three feet (3') above the highest adjacent grade (as defined in § 14-402). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with the standards of this section: "Enclosures."

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

(c) Enclosures. All new construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor that are subject to flooding, shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

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

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

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

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

(ii) The enclosed area shall be the minimum necessary to allow for parking of vehicles, storage or building access.

(iii) The interior portion of such enclosed area shall not be finished or partitioned into separate rooms in such a way as to impede the movement of floodwaters and all such partitions shall comply with the provisions of this subsection (2).

(d) Standards for manufactured homes and recreational vehicles.

(i) All manufactured homes placed, or substantially improved, on:

(A) Individual lots or parcels;

(B) In expansions to existing manufactured home parks or subdivisions; or

(C) In new or substantially improved manufactured home parks or subdivisions, must meet all the requirements of new construction.

(ii) All manufactured homes placed or substantially improved in an existing manufactured home park or subdivision must be elevated so that either:

(A) In AE Zones, with base flood elevations, the lowest floor of the manufactured home is elevated on a permanent foundation to no lower than one foot (1') above the level of the base flood elevation; or

(B) In approximate A Zones, without base flood elevations, the manufactured home chassis is elevated and supported by reinforced piers (or other foundation elements of at least equivalent strength) that are at least three feet

(3') in height above the highest adjacent grade (as defined in § 14-402).

(iii) Any manufactured home, which has incurred "substantial damage" as the result of a flood, must meet the standards of subsection (1) above and this subsection (2).

(iv) All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(v) All recreational vehicles placed in an identified special flood hazard area must either:

(A) Be on the site for fewer than one hundred eighty (180) consecutive days;

(B) Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or;

(C) The recreational vehicle must meet all the requirements for new construction.

(e) Standards for subdivisions and other proposed new development proposals. Subdivisions and other proposed new developments, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding.

(i) All subdivision and other proposed new development proposals shall be consistent with the need to minimize flood damage.

(ii) All subdivision and other proposed new development proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(iii) All subdivision and other proposed new development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(iv) In all approximate A Zones, require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than fifty (50) lots or five (5) acres, whichever is the lesser, include within such proposals base flood elevation data. (See subsection (5) below).

(3) Standards for special flood hazard areas with established base flood elevations and with floodways designated. Located within the special flood hazard areas established in § 14-403(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 development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that the cumulative effect of the proposed encroachments or new development shall not result in any increase in the water surface elevation of the base flood elevation, velocities, or floodway widths during the occurrence of a base flood discharge at any point within the community. A Tennessee registered professional engineer must provide supporting technical data, using the same methodologies as in the effective flood insurance study for the Town of Unicoi, Tennessee and certification, thereof.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(4) Standards for areas of special flood hazard Zones AE with established base flood elevations but without floodways designated. Located within the special flood hazard areas established in § 14-403(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 construction and substantial improvements shall be located within areas of special flood hazard, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.

(b) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above.

(5) Standards for streams without established base flood elevations and floodways (A Zones). Located within the special flood hazard areas established in § 14-403(2), where streams exist, but no base flood data has been provided and where a floodway has not been delineated, the following provisions shall apply:

(a) The administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other sources, including data developed as a result of

these regulations (see subsection (5)(b) below), as criteria for requiring that new construction, substantial improvements, or other development in approximate A Zones meet the requirements of subsections (1) and (2) above.

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

(c) Within approximate A Zones, where base flood elevations have not been established and where such data is not available from other sources, require the lowest floor of a building to be elevated or floodproofed to a level of at least three feet (3') above the highest adjacent grade (as defined in § 14-402). All applicable data including elevations or floodproofing certifications shall be recorded as set forth in § 14-404(2). Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with the standards of subsection (2) above.

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

(e) New construction and substantial improvements of buildings, where permitted, shall comply with all applicable flood hazard reduction provisions of subsections (1) and (2) above. Within approximate A Zones, require that those subsections of subsection (2) above dealing with the alteration or relocation of a watercourse, assuring watercourse carrying capacities are maintained and manufactured homes provisions are complied with as required.

(6) Standards for areas of shallow flooding (AO and AH Zones). Located within the special flood hazard areas established in § 14-403, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet (1'-3') where a clearly defined channel does not exist and where the path of flooding is unpredictable

and indeterminate; therefore, the following provisions, in addition to those set forth in subsections (1) and (2) above, apply:

(a) All new construction and substantial improvements of residential and nonresidential buildings shall have the lowest floor, including basement, elevated to at least one foot (1') above as many feet as the depth number specified on the FIRMs, in feet, above the highest adjacent grade. If no flood depth number is specified on the FIRM, the lowest floor, including basement, shall be elevated to at least three feet (3') above the highest adjacent grade. Openings sufficient to facilitate automatic equalization of hydrostatic flood forces on exterior walls shall be provided in accordance with standards of subsection (2) above.

(b) All new construction and substantial improvements of nonresidential buildings may be floodproofed in lieu of elevation. The structure together with attendant utility and sanitary facilities must be floodproofed and designed watertight to be completely floodproofed to at least one foot (1') above the flood depth number specified on the FIRM, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If no depth number is specified on the FIRM, the structure shall be floodproofed to at least three feet (3') above the highest adjacent grade. A Tennessee registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter and shall provide such certification to the administrator as set forth above and as required in accordance with § 14-404(2).

(c) Adequate drainage paths shall be provided around slopes to guide floodwaters around and away from proposed structures.

(7) Standards for areas protected by flood protection system (A-99 Zones). Located within the areas of special flood hazard established in § 14-403(2), are areas of the 100-year floodplain protected by a flood protection system but where base flood elevations have not been determined. Within these areas (A-99 Zones) all provisions of § 14-404 and this section shall apply.

(8) Standards for unmapped streams. Located within the Town of Unicoi, Tennessee, are unmapped streams where areas of special flood hazard are neither indicated nor identified. Adjacent to such streams, the following provisions shall apply:

(a) No encroachments including fill material or other development including structures shall be located within an area of at least equal to twice the width of the stream, measured from the top of each stream bank, unless certification by a Tennessee registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface

elevation of the base flood more than one foot (1') at any point within the locality.

(b) When a new flood hazard risk zone and base flood elevation and floodway data is available, new construction and substantial improvements shall meet the standards established in accordance with § 14-404 and this section. (Ord. #2013-231, Oct. 2013, modified)

14-406. Variance procedures. (1) Municipal board of zoning appeals.

(a) Authority. The Town of Unicoi, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

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

(c) Appeals; how taken. An appeal to the municipal board of zoning appeals may be taken by any person, firm or corporation aggrieved or by any governmental officer, department, or bureau affected by any decision of the administrator based in whole or in part upon the provisions of this chapter. Such appeal shall be taken by filing with the municipal board of zoning appeals a notice of appeal, specifying the grounds thereof. In all cases where an appeal is made by a property owner or other interested party, the fee for the cost of publishing a notice of such hearings shall be paid by the Town of Unicoi. The administrator shall transmit to the municipal board of zoning appeals all papers constituting the record upon which the appeal action was taken. The municipal board of zoning appeals shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to parties in interest and decide the same within a reasonable time which shall not be more than seven (7) days from the date of the hearing. At the hearing, any person or party may appear and be heard in person or by agent or by attorney.

(d) Powers. The municipal board of zoning appeals shall have the following powers:

(i) Administrative review. To hear and decide appeals where it is alleged by the applicant that there is error in any order, requirement, permit, decision, determination, or refusal made by the administrator or other administrative official in carrying out or enforcement of any provisions of this chapter.

(ii) Variance procedures. In the case of a request for a variance, the following shall apply.

(A) The Town of Unicoi, Tennessee Municipal Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.

(B) Variances may be issued for the repair or rehabilitation of historic structures as defined, herein, upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary deviation from the requirements of this chapter to preserve the historic character and design of the structure.

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

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

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

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

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

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

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

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

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

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

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

(D) Upon consideration of the factors listed above, and the purposes of this chapter, the municipal board of zoning appeals may attach such conditions to the granting of variances, as it deems necessary to effectuate the purposes of this chapter.

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

(2) Conditions for variances. (a) Variances shall be issued upon a determination that the variance is the minimum relief necessary, considering the flood hazard and the factors listed in § 14-404(1).

(b) Variances shall only be issued upon: a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship; or a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(c) Any applicant to whom a variance is granted shall be given written notice that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance (as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) coverage, and that such construction below the base flood elevation increases risks to life and property.

(d) The administrator shall maintain the records of all appeal actions and report any variances to FEMA upon request. (Ord. #2013-231, Oct. 2013)

14-407. Legal status provisions. Conflict with other ordinances: in case of conflict between this chapter or any part thereof, and the whole or part of any existing or future ordinance of the Town of Unicoi, Tennessee, the most restrictive shall in all cases apply. (Ord. #2013-231, Oct. 2013)

CHAPTER 5

MOBILE HOME PARK REGULATIONS

SECTION

- 14-501. Purpose.
- 14-502. Applicability.
- 14-503. Definitions.
- 14-504. Minimum standards.
- 14-505. Mobile home parks; density and dimension requirements.
- 14-506. Mobile home spaces; density and dimension requirements.
- 14-507. Sign specifications.
- 14-508. Road specifications.
- 14-509. Parking space specifications.
- 14-510. Utility specifications.
- 14-511. Topographic and drainage specifications.
- 14-512. Buffering and open space specifications.
- 14-513. Application process for a mobile home park.

14-501. Purpose. Because of their unusual characteristics, mobile home parks pose special problems in the application of land use control techniques and require special consideration as to their proper location and character in relation to adjacent uses and to the development of the community, and as to the circumstances and conditions under which they may be permitted. The standards provided in this chapter represent an attempt to provide adequate protection for, and consideration of, both the community and the mobile home dweller. (2004 Code, § 14-501)

14-502. Applicability. The provision of this chapter shall apply to all new mobile home parks located within the Town of Unicoi. In any district in which mobile home parks are permitted, the following regulations shall apply.

(1) Any additions made to existing mobile home parks located within the Town of Unicoi which extend the number of dwelling units or the area occupied by dwelling units beyond that originally approved by the planning commission; and

(2) Mobile home subdivisions located within the Town of Unicoi shall comply with all applicable provisions of the Unicoi subdivision regulations, as amended. (2004 Code, § 14-502)

14-503. Definitions. The following definitions shall apply in the interpretation and application of this chapter. Certain words or terms used herein shall be defined as follows: words used in the present tense include the future tense; words used in the singular number include the plural; and words

used in the plural include the singular. The word "shall" is always mandatory, not directory. The word "may" is permissive.

(1) "Access road." A road is entirely located within a mobile home park and which is designed to provide mobile home park residents with an opportunity for vehicular movement both within the park and to the nearest public right-of-way.

(2) "Alley." A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

(3) "Buffer strip." A solid wall, fence, evergreen hedge, or similar screening device not less than seven feet (7') high.

(4) "Building inspector." (a) The officer, or his duly authorized representative, charged with administration and enforcement of this chapter.

(b) "Building inspector" shall mean the building inspector of the Town of Unicoi, Tennessee, or his authorized representative.

(5) "Electrical inspector" shall mean the electrical inspector of the Town of Unicoi, Tennessee, or his authorized representative.

(6) "Health officer" shall mean the Health Officer of Unicoi County, Tennessee, or his authorized representative.

(7) "Mobile home" or "manufactured home." A detached single-family dwelling unit with all of the following characteristics:

(a) Designed for long-term occupancy and containing sleeping accommodation, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

(b) Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels.

(c) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like.

(8) "Mobile home park" shall mean any plat of ground under single ownership containing a minimum of two (2) acres upon which two (2) or more mobile homes are located or are intended to be located. A mobile home park, however, does not include sites where unoccupied mobile homes are on display for sale.

(9) "Mobile home space." The lot area allocated for an individual mobile home. This area includes the land under which the actual mobile home is located and the required front, side and rear yards for the associated mobile home.

(10) "Mobile home subdivision." A subdivision designed and or intended for the sale of lots for siting mobile homes.

(11) "Plumbing inspector" shall mean the plumbing inspector of the Town of Unicoi, Tennessee, or his authorized representative.
(2004 Code, § 14-503)

14-504. Minimum standards. The following minimum standards shall apply to all mobile home parks:

(1) The site shall be located on a well drained and flood free site with proper drainage.

(2) General standards.

(a) Mobile homes shall not be used for commercial, industrial, or other nonresidential uses within the mobile home park, except that one (1) mobile home in the park may be used to house a management office or similar facility noted below in subsection (2)(b).

(b) Each mobile home park shall be provided with a designated management space and such service buildings as are necessary to provide facilities for mail distribution, storage space for supplies, maintenance materials and equipment. All service buildings shall not be more than four hundred feet (400') from the spaces which they solely serve and shall be of permanent construction and maintained in a clean and sanitary condition.

(c) In each mobile home park, the duly authorized attendant or caretaker shall be charged at all times to keep the mobile home park, its facilities and equipment in a clean, orderly, safe and sanitary condition.

(d) Cabanas, travel trailers and other similar enclosed structures are allowed provided they are kept in areas which are separate from mobile home spaces.

(e) Each mobile home shall have a non-combustible, corrosive-resistant skirt extending from the bottom of the mobile home to the mobile home space pad foundation. Said skirt shall be provided with an access way with a door measuring at least eighteen inches (18") by twenty-four inches (24"); and further, said skirt shall be constructed so as to prohibit insect and rodent infestation. The site shall not be exposed to objectionable smoke, noise, odors, insect, or rodent harborage or other adverse influences. (2004 Code, § 14-504)

14-505. Mobile home parks; density and dimension requirements.

(1) Mobile home parks shall be subject to the density provisions of the zoning district in which they are located. The minimum area for a mobile home park is two (2) acres.

(2) Each mobile home park shall meet the following minimum setback requirements, irrespective of the zoning district in which the park is proposed:

Front yard setback	30 feet
Side yard setback	20 feet
Rear yard setback	20 feet

In instances where a side or rear yard abuts on a public right-of-way, the minimum setback shall be thirty feet (30').

(3) No building or structure erected or stationed in a mobile home park shall have a height greater than two (2) stories or thirty-five feet (35'), whichever is less, unless such building or structure is exempted from height limitations, as provided in the Unicoi Zoning Ordinance. (2004 Code, § 14-505)

14-506. Mobile home spaces; density and dimension requirements. (1) The minimum lot area per mobile home space shall be five thousand (5,000) square feet. For double wide mobile homes, the minimum lot area shall be seven thousand five hundred (7,500) square feet. This lot area, in addition to including the space on which a mobile home is located, shall also include driveways, off-street parking spaces (not including those for travel trailers and similar structures), accessory building space, and required front, side and rear yards.

(2) Each mobile home space shall be at least forty feet (40') wide and such space shall be clearly marked by permanent markers.

(3) There shall be a front yard setback of at least ten feet (10') from all access roads within the mobile home park.

(4) Mobile homes shall be placed on each space so that there shall be at least a twenty-foot (20') clearance between mobile homes, provided however, with respect to mobile homes parked end to end, clearance shall be not less than sixteen feet (16'). No mobile home shall be located closer than twenty feet (20') from any building within the mobile home park.

(5) The management shall maintain a register containing the names of all park residents identified by lot number or street address. Such register shall be available to any authorized person needing this material. The numbered lot should be prominently displayed and easily read by emergency services. (2004 Code, § 14-506)

14-507. Sign specifications. (1) Mobile home parks shall be permitted to display, on each public right-of-way frontage, one (1) free standing sign not to exceed twelve feet (12') in height and thirty (30) square feet in area to identify the name, address, and phone number of the park, provided such sign(s) are in compliance with all applicable provisions of the Town of Unicoi Sign Ordinance.

(2) Each occupant of a mobile home space shall be permitted one (1) wall sign, provided such sign is flush with the mobile home, does not exceed four (4) square feet in area and meets all other applicable requirements of the Town of Unicoi Sign Ordinance. (2004 Code, § 14-507)

14-508. Road specifications. (1) All roads within a mobile home park shall be private and shall not be accepted as public roads, unless such roads first meet all applicable requirements noted in the Town of Unicoi Subdivision Regulations and are formally offered to and accepted by the Town of Unicoi.

(2) Each mobile home park site shall be located with at least forty feet (40') of frontage on a public right-of-way. Each mobile home space shall contain a driveway which intersects an access road. Each access road shall provide unobstructed vehicular access to a public right-of-way.

(3) Sole vehicular access shall not be through an alley.

(4) Private access roads and driveways in a mobile home park shall be paved to a width of not less than twenty feet (20') and shall consist of a five-inch (5") compacted crushed stone base with a two inch (2") compacted asphaltic concrete plant mix surface.

(5) Dead-end access roads shall contain a paved cul-de-sac or other turn around. Such turn around shall be constructed of at least a five inch (5") crushed rock base and a two-inch (2") compacted asphaltic concrete plant mix surface. Moreover, such permanent turn around space shall have a minimum diameter, as measured from the widest point, of at least seventy feet (70'), unless a higher standard is required for emergency vehicle access. (2004 Code, § 14-508)

14-509. Parking space specifications. (1) There shall be at least one (1) paved, off street parking space for each mobile home space, which shall be on the same mobile home space as the mobile home served, and may be located in the rear or side yard of the associated mobile home space.

(2) Additional parking space may be required in separate areas for travel trailers, tractor trailers, boats, and other accessory vehicles. Approval for such space shall be made by the planning commission during the mobile home site plan review process.

(3) Any parking spaces separate from individual mobile home spaces may be required to include spaces for the physically handicapped. (2004 Code, § 14-509)

14-510. Utility specifications. (1) Sewer, water (including fire hydrants), gas, electricity, storm sewer, telephone, cable and other utilities shall be installed at the expense of the developer or owner. Such utilities shall also be installed prior to the initiation of any road surfacing activities.

(2) Utility easements no less than eight feet (8') wide shall be required along each side of all private access roads for the extension of existing or planned utilities. Vegetated drainage easements of no less than fifteen feet (15') shall be provided on each side of the top bank of a stream or other permanent water body existing on the mobile home park site. Such area may be considered as part of the open space required in § 14-512.

(3) Fire hydrants shall be required and shall be located no more than one thousand feet (1,000') apart and within five hundred feet (500') of any structure.

(4) All access roads and walkways shall be lighted with security lights spaced no further than one hundred fifty feet (150') from each other. (2004 Code, § 14-510)

14-511. Topographic and drainage specifications. The proposed park shall be located on a well drained and flood free site as determined by the erosion control plans (drainage plans) prepared for the proposed park. In all cases water runoff and erosion and sediment control plans shall be prepared by a licensed engineer who specializes in hydrology. At a minimum, such plans shall include calculation and narrative which indicate specifically how surface water runoff and erosion and sedimentation will be controlled so that off site properties and water systems will be unaffected by the proposed development. Drawings, including cross sections, shall be provided which graphically demonstrate existing and proposed water flows and which include the location, dimensions and materials associated with pipes, storm drains, detention and dissipation basins, swells, and other control measures and structures. The location of straw bales, rip rap, silt fences and other erosion and sediment control measures shall also be included. And, the "drainage plan" shall include a letter which states that the hydrologist certifies that, by adhering to the design provided in the plan, post development surface water runoff will not exceed predevelopment surface water runoff for the ten (10) year twenty-four (24) hour storm event. In cases where a mobile home park is to be completed in phases, water runoff and erosion control measures shall be established and completed for each phase prior to initiating a new phase. (2004 Code, § 14-511)

14-512. Buffering and open space specifications. (1) There shall be buffer strips as defined in § 14-503, along side and rear lot lines of the mobile home park. The buffer strips shall be arranged so that the park is entirely enclosed, with the exception of driveways and space required for front yards.

(2) Each mobile home park shall provide a common area for playgrounds and leisure time pursuits totaling a minimum of five hundred (500) square feet for each mobile home space, exclusive of roadways, required yards for mobile home spaces and parking spaces. Buffer strips, as required in subsection (1) above, may be counted toward common area requirements.

(3) Any part of the park area not used for buildings or other structures, parking, or access ways shall be landscaped with grass, trees, shrubs, and pedestrian walks. Moreover, such landscaping shall be maintained to an extent which meets all town codes.

(4) Walkways not less than two feet (2') wide shall be provided from mobile home spaces to service buildings. (2004 Code, § 14-512)

14-513. Application process for a mobile home park.

(1) Preliminary general plan mobile home park development plat. As an initial phase of the application process for a mobile home park, the Town of

Unicoi Planning Commission shall review a preliminary mobile home park development plan. The plan shall be submitted to the town planner no later than the last business day of the month preceding the meeting in which the planning commission review is requested. In addition, a copy of the plan shall be submitted to all representatives who may provide utilities to the park. The submission to utility representatives shall take place at least fifteen (15) calendar days prior to the planning commission meeting. At a minimum, the preliminary mobile home park development plan shall include the following:

(a) General requirements. (i) A vicinity map which shows streets and other general development of the surrounding area.

(ii) An indication of existing land uses associated with property adjacent to the proposed park, including adjacent zoning.

(iii) An indication of the total acreage associated with the mobile home park.

(iv) The location of the mobile home park with labeled dimensions which show the property in relations to required setback lines. A certificate of accuracy signed by the surveyor shall also be submitted for the survey of the property boundary and any internal subdivisions. In all cases property to be subdivided shall adhere to the Town of Unicoi Subdivision Regulations.

(v) The location and dimensions of all uses and improvements constructed or to be constructed within the mobile home park.

(vi) The location, dimensions, and areas of all proposed or existing lots or mobile home park spaces.

(vii) The distance between proposed mobile homes and their mobile home space boundaries.

(viii) An indication of the date, the approximate north point, and a graphic scale no less than one inch (1") equals one hundred feet (100').

(b) Name requirements. (i) The name of the proposed mobile home park.

(ii) The name and address, including telephone number, of the legal owner or agent of property.

(iii) The name and address including telephone number of the professional person(s) responsible for the design of the proposed park.

(iv) The name and address, including telephone number, of the certified engineers responsible for the drainage and erosion control plan.

(c) Legal information. (i) Citation of the last instrument conveying title to the property proposed for the mobile home park.

(ii) Citation of any existing legal rights-of-way or easements affecting the property.

(iii) Location of property, in terms of tax map and parcel reference.

(iv) A plan for establishing easements for utilities, drainage systems, and pedestrian networks.

(v) The location and dimensions of existing easements and rights-of-way.

(d) Natural features and drainage information.

(i) Approximate topography including, at a minimum, spot elevations.

(ii) A drainage plan as discussed in § 14-511(1).

(iii) If the proposed park is to involve construction activities, such as clearing, grading and excavation, which will result in the disturbance of more than five (5) acres, the Tennessee Department of Environment and Conservation requires that a Notice of Intent (NOI) form be completed and filed with the state. A completed copy of this form shall also be required for submission as part of the preliminary mobile home park development plan.

(e) Infrastructure and parking space information.

(i) The location, width, grade and name of all existing and proposed streets within or immediately adjacent to the subject property.

(ii) A cross section of proposed access roads. Such cross section shall indicate the depth and materials associated with both the base and the surface layer.

(iii) The location and dimensions of existing and proposed points of ingress and egress both within and adjacent to the subject property.

(iv) The location, dimensions, and lighting systems associated with proposed off street parking facilities. Handicapped parking spaces shall also be indicated on the plan.

(v) The location, dimensions, and lighting systems associated with any existing or proposed pedestrian systems related to the park.

(vi) The location and sizes of existing and proposed sewers, water mains, culverts, and other underground structures within the tract.

(vii) Preliminary proposals for connection with existing water supply and sanitary sewer.

(viii) The written comments of any applicable utility representatives responsible for reviewing the preliminary plan. These comments shall be submitted to the town planner by the

developer no less than seven (7) calendar days prior to the planning commissions upcoming meeting.

(f) Open space and landscaping information. (i) The location, dimensions, and area of all portions of the park to be set aside for playground, open space or similar uses.

(ii) A preliminary landscape plan, prepared by a landscape architect.

(2) Final mobile home park development plan. After a preliminary mobile home park development plan has been reviewed by the planning commission and obtained preliminary approval subject to certain specific revisions, a revised final mobile home development plan may be submitted for review by the planning commission. Where no subdivision of land is involved, final approval of the mobile home park will be conditioned on whether the proposed park meets all applicable provisions of this chapter. Moreover, final approval, necessary for the issuance of a building permit, shall be withheld until the following specific requirements have been met:

(a) All surface water runoff and erosion and sediment control measures have been fully installed to the specifications provided in the drainage plan.

(b) Or, if certain surface water runoff control and erosion and sediment control measures are to be installed while building construction is occurring, a water runoff and erosion and sediment control bond shall be posed at the time of the application for final approval in an amount estimated by the planning commission as sufficient to secure to the Town of Unicoi the satisfactory installation and maintenance of the surface water runoff and erosion control measures.

(c) A bond is posted for landscape completion, maintenance and replacement. (2004 Code, § 14-513)

CHAPTER 6

BILLBOARDS

SECTION

14-601. Purpose.

14-602. Definitions.

14-603. Billboards prohibited.

14-601. Purpose. The intent of this chapter is to promote the health, safety, and welfare of the public by preserving the area's natural beauty, protecting property values, and encouraging safe traffic flow through the prohibition of billboards. (2004 Code, § 14-601)

14-602. Definitions. The following definitions shall apply to this chapter:

(1) "Billboard." Any sign greater than thirty-two (32) square feet in area which is not located on the property it advertises or which advertises generally ubiquitous goods or services.

(2) "Sign." Any writing, pictorial representation, symbol, emblem or object intended to advertise, announce, or direct attention. This definition includes the physical surface used to portray information but does not include legitimate art works, government flags or emblems, or governmental signs needed for the public welfare. (2004 Code, § 14-602)

14-603. Billboards prohibited. Billboards are hereby prohibited within the corporate limits of the Town of Unicoi, Tennessee. (2004 Code, § 14-603)

TITLE 15**MOTOR VEHICLES, TRAFFIC AND PARKING****CHAPTER**

1. SPEED LIMITS.
2. MISCELLANEOUS.
3. PARKING.

CHAPTER 1**SPEED LIMITS****SECTION**

- 15-101. Speed limits.
- 15-102. Construction, repair and maintenance zones.

15-101. Speed limits. The speed limit within the Town of Unicoi shall be thirty-five (35) miles per hour in all areas or upon all public thoroughfares unless otherwise designated.¹ (2004 Code, § 15-101)

15-102. Construction, repair and maintenance zones. (1) There shall be established a maximum speed limit of fifteen (15) miles per hour in construction, repair and maintenance zones within the Town of Unicoi.

(2) Construction, repair and maintenance zones to which this section is applicable includes any and all areas of construction, repair and maintenance that affects the public rights-of-way at any specific location in excess of twenty (20) minutes.

(3) The penalty for each violation of this section shall be punishable as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00), plus Town of Unicoi municipal court costs.

(4) Posting of the fifteen (15) miles per hour speed limit shall be the responsibility of the contractor, utility company or other agency undertaking such construction, repair or maintenance.

(5) Any provision of TDOT regulations concerning construction zone regulation, which is more selective than that set-out herein shall govern. (Ord. #2012-217, Dec. 2012)

¹Ordinances providing exceptions to the thirty-five (35) miles per hour speed limit are of record in the office of the town recorder.

CHAPTER 2

MISCELLANEOUS

SECTION

15-201. Adoption of state traffic statutes.

15-202. Restrictions on property owned by town.

15-201. Adoption of state traffic statutes. By the authority granted under *Tennessee Code Annotated*, § 16-18-302, the Town of Unicoi adopts by reference as if fully set forth in this section, the "Rules of the Road," as codified in *Tennessee Code Annotated*, §§ 55-8-101 through 55-8-307 by reference as if fully set forth in this section. Additionally, the Town of Unicoi adopts *Tennessee Code Annotated*, §§ 55-9-101 through 55-9-610 and § 55-12-139 by reference as if fully set forth in this section. (Ord. #2019-266, Dec. 2019)

15-202. Restrictions on property owned by town. (1) "Motor vehicles" are defined as: any motorized vehicle of any size, including, but not restricted to, cars, trucks, buses, motorcycles and ATVs. "Motor vehicles" within the meaning of this section specifically does not mean any vehicle designed and used for handicapped persons mobility and access to these properties and further does not mean any maintenance or work vehicle being used by the town and/or any of its agents or subsidiaries for the improvement and/or maintenance of the property:

(2) It is hereby prohibited and a violation of this section to operate a motor vehicle on the restricted properties set out in subsection (4) below.

(3) Signage describing this restriction will be placed at the obvious entrance(s) and at other potential entrance locations to these properties.

(4) Restricted properties pursuant to this section are as follows: 3600 Unicoi Drive, 5012 Unicoi Drive, 101 Powder Hollow Road, 507 Massachusetts Avenue and 112 Golf Course Road.

(5) The penalty for each violation of this section shall be punishable as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00), plus Town of Unicoi municipal court costs. (Ord. #10-200, Oct. 2010)

CHAPTER 3

PARKING

SECTION

15-301. Parking on public rights-of-way.

15-302. Regulations on parking.

15-301. Parking on public rights-of-way. (1) It is hereby prohibited and a violation of this section for any motor vehicle as previously defined within the statutes of the State of Tennessee incorporated into the ordinances of the Town of Unicoi, Tennessee, to park on the public rights-of-way within the Town of Unicoi, Tennessee unless designated by the Town of Unicoi by appropriate signage or other means designed to indicate that parking is permitted on a particular area of the public right-of-way.

(2) This prohibition shall extend beyond the paved right-of-way to the full extent and edge of the right-of-way dedicated to the Town of Unicoi or the State of Tennessee.

(3) The penalty for each violation of this section shall be punishment as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00) in addition to the Town of Unicoi municipal court costs. (Ord. #2015-244, Oct. 2015, as amended by Ord. #2021-295, July 2021)

15-302. Regulations on parking. (1) No person shall stop, stand or park a vehicle within the boundary limits of the town, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

- (a) Blocking a public way or intersection;
- (b) In front of a public or private driveway;
- (c) Within seven and one half feet (7-1/2') of a fire hydrant;
- (d) Within fifty feet (50') of the nearest rail of a railroad crossing;
- (e) Within twenty feet (20') of the driveway entrance of any fire station and/or on the side of a street opposite the entrance to any fire station within seventy-five feet (75') of that entrance when properly signposted;
- (f) At any place where official signs prohibit stopping;
- (g) In a parking space clearly identified by an official sign as being reserved for the physically handicapped, unless the person driving the vehicle is physically handicapped or parking the vehicle for the benefit of a physically handicapped person. A vehicle parking in such a space shall display a disabled certificate or placard as set forth by state law, or a disabled veteran's license plate issued pursuant to state law; and

(h) In a fire lane designated as such by the owner of any commercial or public property.

(2) The provisions of subsection (1) above do not apply to a police officer engaged in the lawful performance of duty using a vehicle as a barrier or traffic control device at the scene of an emergency or in response to other calls for police service.

(3) Subsection (1) above does not apply to the driver of a vehicle that is disabled while on the paved or improved or main traveled portion of a road, street, or highway in a manner and to an extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position.

(4) Subsection (1) above shall not apply to the driver of any vehicle operating as a carrier of passengers for hire who is authorized to operate such vehicle upon the roads, streets or highways in Tennessee, while taking passengers on the vehicle, or discharging passengers from that vehicle; provided, that the vehicle is stopped so that a clear view of the vehicle shall be obtained from a distance of two hundred feet (200') in each direction, upon the roads, streets or highways.

(5) (a) It is hereby prohibited and decreed to be a violation of this section, except as set forth herein, for any motor vehicle, as defined within the statutes of the State of Tennessee, incorporated into the ordinances of the Town of Unicoi, Tennessee to park on the public rights-of-way within the Town of Unicoi unless parking in an area designated by the Town of Unicoi for public parking.

(b) The prohibition set out in (5)(a) shall extend beyond the paved right-of-way to the full extent and edge of the right-of-way dedicated to the Town of Unicoi or the State of Tennessee.

(6) The penalty for each violation of this section shall be punishable as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00) plus Town of Unicoi Municipal Court costs. (Ord. #10-201, Dec. 2010, as amended by Ord. #2020-277, Sept. 2020)

TITLE 16

STREETS AND SIDEWALKS, ETC¹

CHAPTER

1. ROAD AND STREET REGULATIONS.

CHAPTER 1

ROAD AND STREET REGULATIONS²

SECTION

- 16-101. Purpose.
- 16-102. Procedures for road construction review--newly constructed roads.
- 16-103. Existing road requirements for review of road acceptance.
- 16-104. Subdivision roads.
- 16-105. Non-subdivision roads--minimum acceptance standards for new construction.
- 16-106. Drainage requirements--all roads.
- 16-107. Public roads.
- 16-108. Administration.
- 16-109. Driveway cuts and construction.
- 16-110. Signs.
- 16-111. Repairs.
- 16-112. Snow removal.
- 16-113. Mowing right-of-way.
- 16-114. Drainage tile.

16-101. Purpose. Road construction is the first step in the process of community development. Public road upkeep and improvement becomes a public responsibility and the public must pay for widening, paving, and for the correction of any defects. It is therefore in the best interest of the public to ensure that streets are developed in accordance with sound rules and proper minimum standards. The Town of Unicoi Board of Mayor and Aldermen has adopted standards for the development of streets within the Town of Unicoi and has authorized the Town of Unicoi Planning Commission to ensure that these standards are met. The following procedures have been established to give

¹Municipal code reference
Speed limits: title 15, chapter 1.

²Municipal code reference
Speed limits: § 15-101.

guidance to anyone who proposes to construct a street in the Town of Unicoi. (2004 Code, § 16-101)

16-102. Procedures for road construction review--newly constructed roads. The Town of Unicoi will not accept title to and the Town of Unicoi will not be authorized to spend tax monies to maintain any road unless the provisions outlined below have been completed.

All private contractors or individuals who construct any roads in the Town of Unicoi after passage of this chapter are required to enter into agreement with the Town of Unicoi Planning Commission prior to construction of the road(s) if title thereto is to be conveyed to the Town of Unicoi.

(1) Such agreement shall specifically state that the builder of the road shall be responsible for the maintenance and upkeep of the road for a period of one (1) year.

(2) At the discretion of the Town of Unicoi, the road builder may be required to post satisfactory bond to ensure that the road(s) are properly maintained for a period of one (1) year.

(3) If the contractor or private citizen and the planning commission agree on the construction of the road, the planning commission will monitor the construction and when the road is completed to the specification contained herein, will brief the town governing body on the road and recommend that the town governing body accept title for the road.

(4) The one (1) year maintenance requirement by the builder shall begin on the date the town governing body formally accepts title to the road.

(5) If a contractor or a private individual does not agree with the planning commission on the type of construction for a planned road, the contractor or private individual may appeal the decision of the planning commission to the town governing body. The decision of the town governing body will overrule any decision of the planning commission.

(6) If a contractor or a private individual does not agree with the decision of the town governing body, they may appeal said decision to the appropriate courts.

(7) All conveyances of title by deed or otherwise, to the Town of Unicoi for any road or roads not formally accepted by the Town of Unicoi shall be null and void.

(8) The property owner or other individual transferring the right-of-way to the town of Unicoi shall be responsible for all costs, including recording costs, of the instrument conveying title. (2004 Code, § 16-102)

16-103. Existing road requirements for review of road acceptance. In order to make a request in the Town of Unicoi to have an existing road accepted by the town as a town road, placed on the official town road map and maintained by the town, the following procedures must be followed:

(1) All of the following criteria can be documented, then a request may be made to the Unicoi Planning Commission¹ for road acceptance:

- (a) The road has been traveled routinely by the general public.
- (b) The road serves a minimum of three (3) residences.
- (c) All of the residents living on the road sign a survey

expressing their desire for the road to become a public road, and their ability and willingness to deed a forty foot (40') right-of-way to the town.

(2) If the planning commission approves the request, it is then forwarded to the board of mayor and aldermen for review and acceptance.

(2004 Code, § 16-103)

16-104. Subdivision roads. Definition: A "subdivision road" is a road constructed by a developer for the purpose of gaining access to land being sold.

(1) General requirements for road construction. (a) Any owner of land lying within the corporate limits of the Town of Unicoi wishing to construct a road shall submit a plan of such proposed road to the Town of Unicoi Planning Commission for approval prior to the making of any street improvements or installation of utilities. This plan shall meet the standards of design for street acceptance as set forth by the Town of Unicoi Board of Mayor and Aldermen minimum street standards. Once the preliminary plat has been approved by the planning commission the developer can proceed with street improvements as outlined in the Town of Unicoi's minimum street acceptance standards.

(b) After completion of a street, which meets the town's minimum street acceptance standards, the developer shall submit a final plat to the Town of Unicoi Planning Commission. The final plat shall show:

(i) The lines of all streets and roads, reservations, easements, and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations;

(ii) Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, boundary line, and including north point;

(iii) All dimensions to the nearest one hundredth (100th) of a foot and angles to the nearest minute;

(iv) Location and description of monuments;

(v) The names and locations of adjoining streets and the location and ownership of adjoining property;

¹Municipal code reference

Planning commission: title 14, chapter 1.

(vi) Date, title, name and location of street, graphic scale and north point;

(vii) Location sketch map showing street in relation to area.

(c) When the final plat has been approved by the planning commission one (1) copy will be returned to the developer, with the approval of the planning commission certified thereon, for filing with the county registrar as the official plat record.

(2) Subdivision inspection procedure. In order to ensure the proper development of subdivisions within the corporate limits of the Town of Unicoi, a subdivision inspection system has been established. The planning commission will appoint a committee to inspect the progress of all developing subdivisions within its jurisdiction. The committee will inspect each developing subdivision three (3) times.

(a) There will be an inspection immediately following clearance of the right-of-way, and construction of subgrade;

(b) Immediately following the laying and compacting of the six inch (6") stone base;

(c) Before final approval is requested in order to ensure that ditching, paving, culverts, seeding, etc., have been accomplished.

The developer of a subdivision will be responsible for notifying the committee during each of the above mentioned steps. The committee will make its inspection promptly to ensure a minimum of delay to the developer.

(3) Subdivision road specifications/minimum street acceptance standards. The right-of-way for any road or roads entering into and exiting from any subdivision shall be at least forty feet (40') in width.

(a) For the purpose of this chapter, the Town of Unicoi Planning Commission shall have the responsibility in determining whether a road is to be classified as a subdivision road.

(b) All subdivision roads shall have at least twenty-two feet (22') of paved road bed with a minimum of three feet (3') of shoulder on each side of the road. The paved portion of the road shall consist of a minimum of four inches (4") of gravel base which base must be of one inch (1") diameter or less gravel and shall be topped by two inches (2") of fine gravel or chat properly graded and rolled or packed. The road will then be paved with a minimum of two inches (2") of asphalt. The asphalt topping must be of the same quality as that used by the State of Tennessee on state secondary roads. (2004 Code, § 16-104)

16-105. Non-subdivision roads--minimum acceptance standards for new construction. (1) The following minimum standards are prescribed for roads constructed by private contractors or individuals if title to these roads is to be accepted by the Town of Unicoi.

(2) Specifications. (a) The right-of-way for all other roads (paved, unpaved or gravel roads), not constructed in conjunction with the development of a subdivision but for which the Town of Unicoi is to accept title, shall be at least forty feet (40') in width.

(b) All other unpaved or gravel roads, for which the Town of Unicoi is to accept title, shall have a road bed of at least twenty-two feet (22') with a minimum of three feet (3') of shoulder on each side of the road and shall be properly graded and drained.

(c) The road bed of all unpaved or gravel roads mentioned above shall have at least four inches (4") of gravel of which the bottom three inches (3") must be of one inch (1") diameter gravel, or less, topped by one inch (1") of fine gravel or chat properly spread and graded.

(d) Road banks shall be sloped to prevent rapid run-off of water and rock or mud slides.

(e) Ditch lines shall be deep enough to carry that volume of water resulting from one inch (1") of rain falling within one (1) hour.

(f) Tiles and culverts shall be of concrete or corrugated metal material and shall be of sufficient size to properly drain all ditch lines and feeder streams coming into them.

(g) Any tile or culvert at least sixteen inches (16") and not more than twenty-four inches (24") in diameter shall have a header built of eight inches (8") of reinforced concrete or eight inch (8") concrete or cinder blocks filled with concrete and reinforced both horizontally and vertically with steel. Tiles or culverts over twenty-four inches (24") in diameter shall have a twelve inch (12") header constructed according to the specifications contained in this subsection. (2004 Code, § 16-105)

16-106. Drainage requirements – all roads. (1) Each plat submitted for approval shall include a drainage plan. The plan shall include controls for water altered from its natural course and shall control the water until it is returned to its natural course. The controls shall include temporary measures for sedimentation and erosion control. The plan shall be prepared by a qualified person.

(2) The minimum culvert size shall be eighteen inches (18") and shall extend at least one foot (1') beyond the toe of the slope. (2004 Code, § 16-106)

16-107. Public roads. The Town of Unicoi Planning Commission (in conjunction with the road commissioner) has developed and made available to the public, a list of all roads in the Town of Unicoi whose title has been transferred to the town and which the town maintains.

Any roads within the Unicoi town limits, not listed on the referenced list¹, are designated as private roads. (2004 Code, § 16-107)

16-108. Administration. The road commissioner will keep a schedule of paving priorities of unpaved roads, and a schedule of maintenance of existing paved roads including forecasts of anticipated expenses.

The town recorder will provide monthly reporting to the road commissioner of monthly and year-to-date road expenses, with a comparison to budget.

The town recorder will maintain records of all completed paving projects since the inception of the Town of Unicoi.

The planning commission will present requests for road acceptance to the board of mayor and aldermen, citing criteria, forecast level of maintenance, whether or not the road is in a subdivision, and any other pertinent information. (2004 Code, § 16-108)

16-109. Driveway cuts and construction. (1) Properties having fifty feet (50') or less of public road frontage are permitted only one (1) drive entrance. Properties with more than fifty feet (50') of public road frontage are allowed two (2) or more entrances upon review and approval for the Unicoi planning commission and the board of mayor and aldermen unless a corner lot is more than fifty feet (50') total frontage on both roads.

(2) All driveways must be connected at a right angle with the town public road.

(3) Driveways shall be designed with as long a site distance as possible. Where possible, the drive shall not be located on a curve or hill.

(4) Driveways shall not be located nearer than twelve and one half feet (12 1/2') from the interior property line representing any road along the side of the property, which intersects with the public road along the front of the property.

(5) All driveway cuts shall meet all of the applicable standards as follows:

(a) Driveways shall be constructed to conform to the existing paved street grade.

(b) Driveway width shall be adequate to provide sufficient turning radius and the driveway shall be as near level as possible at the road entrance to provide for easy and safe ingress and egress and to provide good visibility.

(c) Driveways shall cross the sidewalk area (if any) to allow for a smooth and continuous sidewalk (either existing or proposed) along the town rights-of-way.

¹The list of Town of Unicoi roads is available in the office of the recorder.

(d) Driveways shall have a sufficient rock or stone base to keep mud and dirt off of the road.

(e) Driveway drainage tiles shall be installed in a manner that will not impair or alter the existing drainage. These tiles shall be a minimum of twenty feet (20') in length.

(f) Driveway drainage tiles to be located within the town rights-of-way must be concrete. Driveway drainage tiles not to be located within town rights-of-way may be galvanized metal, plastic, or concrete. If plastic is used it must meet state specifications and have headwalls installed. All drainage tiles must be covered with a minimum of twelve inches (12") of crusher run stone. The driveway tile must have a minimum diameter of fifteen inches (15"), but not to exceed twenty-four inches (24") unless specified by an engineer. The driveway tile shall not be of such a size as to adversely affect drainage above and below the property.

(g) If the driveway has a five percent (5%) or greater slope from the road, the first twenty feet (20') of the driveway from the edge of the pavement must be paved with concrete or asphalt. A French drain must be installed no more than five feet (5') from the public road edge. Concrete must have a minimum thickness of four inches (4") and asphalt should have a minimum thickness of two inches (2") after compaction.

(h) Cuts to existing curbing and or streets shall be done by sawing; curbs and/or street shall be repaired to original condition. This shall be the responsibility of the property owner and, if used, the contractor. No certificate of occupancy shall be issued until this work is complete. The responsibility of the property owner and contractor for the road's condition shall extend for one year after the certificate of occupancy is issued.

(i) Property owners shall be responsible for maintaining driveways and cleaning up any material that washes off the driveway into the right-of-way.

(j) Property owners shall be responsible for securing a permit for an Aquatic Resource Alteration Permit (ARAP) from the Tennessee Department of Environment and Conservation, which include: dredging, excavation, channel widening, or straightening;

(k) Bank sloping; stabilization; channel relocation; water diversions or withdrawals; dams, weirs, dikes, levees or other similar structures; flooding, excavating, draining and/or filling a wetland; road and utility crossings; structural fill. (Only if applicable) a copy of the (ARAP) permit shall be submitted to the building inspector prior to commencing driveway construction.

(6) The road commissioner, town recorder or building inspector may require a bond to cover damages to the town road from construction of driveways

or installation of utilities along or across the town road. The amount of such bond shall be determined by the road commissioner.

(7) A driveway cut permit and inspection is required for:

(a) Any new driveway cut; or

(b) Any substantial improvements to an existing driveway, which extends into the right-of-way.

A permit must be issued by the building inspector or town recorder prior to the commencement of any work. The purpose of the permit is to assure the proper placement and construction of new driveway connections.

(8) It shall be unlawful for any grading contractor to initiate construction of a driveway entrance until a permit is obtained by the property owner and contractor as required in this chapter. A field inspection shall be required prior to the issuance of a driveway cut permit. Applicants must complete the following before beginning any work:

(a) Contact town hall to request a field inspection prior to constructing a driveway. The property owner shall provide his name, phone number, and address and/or subdivision name and lot number. The name of the contractor, address and phone number is also required.

(b) The property owner should locate the proposed driveway connection location and width with flags or spray paint at the edge of pavement.

(c) The inspector will inspect the location within three (3) business days of contact. The inspector will provide an inspection report which will either approve the requested location for the new driveway location and specify the size of the drain tile required for adequate drainage or deny the location and state the reason for denial and state the item(s) needed for a re-inspection.

(d) A copy of the inspection report will be sent to the property owner and town hall.

(e) The property owner may proceed with the driveway connection upon receipt of the field inspection report. Once work is complete, the property owner should contact town hall to request a final inspection.

(9) The penalty for each violation of this section shall be punishable as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00), plus Town of Unicoi Municipal Court costs. Anything done on town property must have prior approval before it is done. (Ord. #2013-228, Aug. 2013)

16-110. Signs. (1) Any signs removed to allow delivery or installations must be replaced by the property owner.

(2) Any signs knocked down or destroyed by contractors or suppliers must be repaired or replaced by the property owner who hired/contracted the work.

(3) Green road name signs indicate that the road is a public road, owned and maintained by the Town of Unicoi. Contact town hall to order these signs.

(4) Blue road name signs indicate that the road is a private road. Contact the Unicoi County Sheriff's Office Dispatcher to order these signs.

(5) From and after March 1, 2008, no public road or roads within the Town of Unicoi shall be named after individual persons.

(6) From and after March 1, 2008, no private road or roads within the Town of Unicoi shall be named after individual persons.

(7) From and after April 1, 2008, no public road or roads within the Town of Unicoi shall be named any name which duplicates the name of another public or private road within Unicoi County, Tennessee. This prohibition includes, but is not limited to, naming a road which duplicates any other road name without consideration of different road designations such as lane, drive, road, etc. Therefore, it shall not be permitted for a road to be named, for example, Unicoi Road as there is already a Unicoi Drive within Unicoi County, Tennessee.

(8) From and after April 1, 2008, no private road or roads within the Town of Unicoi shall be named any name which duplicates the name of another public or private road within Unicoi County, Tennessee. This prohibition includes, but is not limited to, naming a road which duplicates any other road name without consideration of different road designations such as lane, drive, road, etc. For example: It shall not be permitted for a road to be named, Grindstaff Lane as there is already a Grindstaff Road within Unicoi County, Tennessee. (2004 Code, § 16-110)

16-111. Repairs. Citizens should route all complaints, notifications and requests through the town recorder who will maintain a log of all requests, notifications, etc. The town recorder will notify the road department of dead animals and road debris that needs to be collected as well as requests for maintenance and repairs. The road commissioner will read the log regularly, and handle all other types of issues, such as pot holes, ditching, tiles, paving and major road work. The road commissioner and town recorder will enter comments to the log which will indicate action taken, solution and/or resolution. Unicoi Road, Route 107 (Limestone Cove Road) and Unicoi Drive between Unicoi Road and Route 107 are state roads and therefore maintained by the State of Tennessee. (2004 Code, § 16-111)

16-112. Snow removal. The town is responsible for snow removal on public roads. Citizens should contact town hall regarding any complaints or special requests. (2004 Code, § 16-112)

16-113. Mowing right-of-way. The town is responsible for clearing growth from rights-of-way on public roads. Citizens should contact town hall regarding any complaints or requests. (2004 Code, § 16-113)

16-114. Drainage tile. The town, upon request by citizens owning property within the town which abuts public right-of-way sufficient in area for installation of drainage tile, shall provide labor to install up to twenty feet (20') of tile to serve one (1) driveway for access to the citizen's residential property in accordance with the following conditions:

(a) The landowner must call and have appropriate, necessary markings placed by TN 1-800-Dig;

(b) The landowner must pay for all tile, gravel and other material required for the installation;

(c) The town shall not be responsible for any concrete or other headwall installation necessary for the tile installation. Responsibility for any headwall installation, both materials and labor, shall be the responsibility of the landowner seeking installation of the tile; and

(d) The installation of drainage tile as aforesaid must take place only upon public right-of-way. (2004 Code, § 16-114)

TITLE 17

REFUSE AND TRASH DISPOSAL

[RESERVED FOR FUTURE USE]

TITLE 18**WATER AND SEWERS****CHAPTER**

1. SEWER USE.
2. UNDERGROUND UTILITY LINE SPECIFICATIONS.

CHAPTER 1**SEWER USE****SECTION**

- 18-101. General provisions.
- 18-102. Abbreviations.
- 18-103. Definitions.
- 18-104. General sewer use requirements.
- 18-105. Pretreatment of wastewater.
- 18-106. Individual wastewater discharge permits.
- 18-107. Individual wastewater discharge permit issuance.
- 18-108. Reporting requirements.
- 18-109. Compliance monitoring.
- 18-110. Confidential information.
- 18-111. Publication of users in significant noncompliance.
- 18-112. Administrative enforcement remedies.
- 18-113. Judicial enforcement remedies.
- 18-114. Supplemental enforcement action.
- 18-115. Affirmative defenses to discharge violations.
- 18-116. Miscellaneous provisions.

18-101. General provisions. (1) Purpose and policy. This chapter sets forth uniform requirements for users of the publicly owned treatment works for the Town of Unicoi and enables Unicoi to comply with all applicable state and federal laws, including the state pretreatment requirements (Tennessee Rule 1200-4-14), the Clean Water Act (33 U.S.C. §§ 1251, *et seq.*) and the General Pretreatment Regulations (40 CFR part 403). The objectives of this chapter are:

- (a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(f) To enable Unicoi to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

This chapter shall apply to all users of the publicly owned treatment works. This chapter authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(2) Administration. Except as otherwise provided herein, the pretreatment coordinator shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the pretreatment coordinator may be delegated by the pretreatment coordinator to a duly authorized Erwin Utilities' employee. (Ord. #2013-225, June 2013)

18-102. Abbreviations. The following abbreviations, when used in this chapter, shall have the designated meanings:

BOD – Biochemical Oxygen Demand.

BMP – Best Management Practice.

BMR – Baseline Monitoring Report.

CFR – Code of Federal Regulations.

CIU – Categorical Industrial User.

COD – Chemical Oxygen Demand.

EPA – U.S. Environmental Protection Agency.

gpd – gallons per day.

IU – Industrial User.

mg/l – milligrams per liter.

NPDES – National Pollutant Discharge Elimination System.

POTW – Publicly Owned Treatment Works.

RCRA – Resource Conservation and Recovery Act.

SIU – Significant Industrial User.

SNC – Significant Noncompliance.

TSS – Total Suspended Solids.

U.S.C. – United States Code. (Ord. #2013-225, June 2013)

18-103. Definitions. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

(1) "Act" or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251, *et seq.*

(2) "Approval authority." The Tennessee Division of Water Pollution Control Director or his representative(s).

(3) "Authorized or duly authorized representative of the user."

(a) If the user is a corporation:

(i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(ii) The manager of one (1) or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(d) The individuals described in subsections (3)(a) to (3)(c) above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to Erwin Utilities.

(4) "Biochemical Oxygen Demand" or "BOD." The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty degrees (20°) Celsius, usually expressed as a concentration (e.g., mg/l).

(5) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 18-104(1) and (2) below (Tennessee Rule 1200-4-14-.05(1)(a) and (2)). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(6) "Categorical industrial user." An industrial user subject to a categorical pretreatment standard or categorical standard.

(7) "Categorical pretreatment standard" or "categorical standard." Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 CFR chapter I, subchapter N, parts 405-471.

(8) "Chemical Oxygen Demand" or "COD." A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(9) "Control authority." Town of Unicoi Board of Public Utilities or Erwin Utilities.

(10) "Daily maximum." The arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

(11) "Daily maximum limit." The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

(12) "Environmental Protection Agency" or "EPA." The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the regional administrator, or other duly authorized official of said agency.

(13) "Existing source." Any source of discharge that is not a "new source."

(14) "Grab sample." A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

(15) "Indirect discharge or discharge." The introduction of pollutants into the POTW from any nondomestic source.

(16) "Instantaneous limit." The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

(17) "Interference." A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its

treatment processes or operations or its sludge processes, use or disposal; or exceeds the design capacity of the treatment works or the collection system.

(18) "Local limit." Specific discharge limits developed and enforced by Erwin Utilities upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Tennessee Rule 1200-4-14-.05(1)(a) and (2).

(19) "Medical waste." Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

(20) "Monthly average." The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(21) "Monthly average limit." The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(22) "New source."

(a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) of the Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility, or installation is constructed at a site at which no other source is located;

(ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsections (a)(ii) or (a)(iii) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(i) Begun, or caused to begin, as part of a continuous onsite construction program:

(A) Any placement, assembly, or installation of facilities or equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(23) "Noncontact cooling water." Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(24) "Pass through." A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of Erwin Utilities' NPDES permit, including an increase in the magnitude or duration of a violation.

(25) "Person." Any and all persons, including individuals, firms, partnerships, associations, public or private institutions, state and federal agencies, municipalities or political subdivisions, or officers thereof, departments, agencies, or instrumentalities, or public or private corporations or officers thereof, organized or existing under the laws of this or any state or country.

(26) "pH." A measure of the acidity or alkalinity of a solution, expressed in standard units.

(27) "Pollutant." Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(28) "Pretreatment." The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

(29) "Pretreatment coordinator." The person designated by Erwin Utilities to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the pretreatment coordinator.

(30) "Pretreatment requirements." Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

(31) "Pretreatment standards or standards." Prohibited discharge standards, categorical pretreatment standards, and local limits.

(32) "Prohibited discharge standards or prohibited discharges." Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 18-104(1).

(33) "Publicly Owned Treatment Works" or "POTW." A treatment works, as defined by § 212 of the Act (33 U.S.C. § 1292), which is owned by the Town of Unicoi, Board of Public Utilities. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

(34) "Septic tank waste." Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(35) "Sewage." Human excrement and gray water (household showers, dishwashing operations, etc.).

(36) "Significant Industrial User (SIU)." A significant industrial user is:

(a) An industrial user subject to categorical pretreatment standards; or

(b) An industrial user that:

(i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(ii) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(iii) Is designated as such by Erwin Utilities on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(37) "Slug load" or "slug discharge." Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 18-104(1). A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause

interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

(38) "Stormwater." Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(39) "Total suspended solids or suspended solids." The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

(40) "Town." The Town of Unicoi or Board of Mayor and Aldermen for the Town of Unicoi, Tennessee.

(41) "User" or "industrial user." A source of indirect discharge.

(42) "Wastewater." Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

(43) "Wastewater treatment plant" or "treatment plant." That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste. (Ord. #2013-225, June 2013, modified)

18-104. General sewer use requirements. (1) Prohibited discharge standards. (a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(i) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees (140°) F (sixty degrees (60°) C) using the test methods specified in 40 CFR 261.21;

(ii) Wastewater having a pH less than 5.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(iii) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

(iv) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(v) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees (104°) F (forty degrees (40°) C);

(vi) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(vii) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(viii) Trucked or hauled pollutants, except at discharge points designated by the pretreatment coordinator in accordance with § 18-105(4);

(ix) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(x) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating Erwin Utilities' NPDES permit;

(xi) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the pretreatment coordinator in compliance with applicable state or federal regulations;

(xii) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the pretreatment coordinator;

(xiii) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(xiv) Medical wastes, except as specifically authorized by the pretreatment coordinator in an individual wastewater discharge permit;

(xv) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(xvi) Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW; or

(xvii) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single

reading over ten percent (10%) of the lower explosive limit of the meter.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(2) National categorical pretreatment standards. Users must comply with the categorical pretreatment standards found at 40 CFR chapter I, subchapter N, parts 405 to 471. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the pretreatment coordinator shall impose an alternate limit in accordance with Tennessee Rule 1200-4-14-.06(5).

(3) State pretreatment standards. Users must comply with the Tennessee Pretreatment Requirements codified at Tennessee Rule 1200-4-14.

(4) Local limits. (a) The pretreatment coordinator is authorized to establish local limits pursuant to Tennessee Rule 1200-4-14-.05(3).

(b) The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following:

<i>Parameter</i>	<i>Sample Type</i>	<i>Daily Max. mg/l</i>	<i>Average discharge limits mg/l</i>
Cadmium	Composite	0.024	0.012
Total Chromium	Composite	0.564	0.423
Copper	Composite	0.768	0.384
Lead	Composite	0.593	0.445
Nickel	Composite	0.490	0.245
Silver	Composite	0.076	0.038
Zinc	Composite	0.615	0.493
Cyanide	Grab	0.170	0.114
Phenol	Grab	0.47	0.228
pH (standard units)	Grab	Min. 5; Max. 9	
Oil and grease	Grab	-----	100
Toluene	Grab	0.193	0.145
Benzene	Grab	0.114	0.057

<i>Parameter</i>	<i>Sample Type</i>	<i>Daily Max. mg/l</i>	<i>Average discharge limits mg/l</i>
1,1,1 Trichloroethane	Grab	0.193	0.096
Ethylbenzene	Grab	0.304	0.152
Carbon Tetrachloride	Grab	0.150	0.032
Chloroform	Grab	0.017	0.0084
Tetrachloroethylene	Grab	0.380	0.190
Trichloroethylene	Grab	0.030	0.015
1,2 Trans- Dichloroethylene	Grab	0.380	0.190
Methylene chloride	Grab	0.170	0.011
Naphthalene	Composite	0.0760	0.038
Total phthalates	Composite	0.935	0.468
Mercury	Composite	0.0048	0.0024
Temperature	Grab	Max. 40°C (104°F)	
Biochemical oxygen demand	Grab		Surcharge in excess of 200 mg/l
Total suspended solids	Grab		Surcharge in excess of 200 mg/l
Ammonia	Composite		
Gross Alpha	Composite		300 pCi/L
Gross Beta	Composite		5,000 pCi/L
U-234	Composite		300 pCi/L
U-235	Composite		50 pCi/L
U-238	Composite		50 pCi/L
Cobalt 60	Composite	3E-6 µCi/ml	2.25E-6 µCi/ml

<i>Parameter</i>	<i>Sample Type</i>	<i>Daily Max. mg/l</i>	<i>Average discharge limits mg/l</i>
Tritrium	Composite	7E-3 µCi/ml	7.5E-4 µCi/ml
Cesium 137	Composite	1E-6 µCi/ml	7.5E-7 µCi/ml
Gross Gamma Scan	Composite	(1)	(2)
Total Uranium	Composite		300 pCi/L

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The pretreatment coordinator may impose mass limitations in addition to the concentration-based limitations above.

(c) The pretreatment coordinator may develop Best Management Practices (BMPs), by ordinance or in individual wastewater discharge permits to implement local limits and the requirements of § 18-104(1).

(5) Erwin utilities right of revision. Erwin Utilities reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

(6) Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The pretreatment coordinator may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Ord. #2013-225, June 2013)

18-105. Pretreatment of wastewater. (1) Pretreatment facilities. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 18-104(1) within the time limitations specified by EPA, the state, or the pretreatment coordinator, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the pretreatment coordinator for review, and shall be acceptable to the pretreatment coordinator before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of

modifying such facilities as necessary to produce a discharge acceptable to Erwin Utilities under the provisions of this chapter.

(2) Additional pretreatment measures. (a) Grease, oil, and sand interceptors shall be provided when, in the opinion of the pretreatment coordinator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the pretreatment coordinator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense.

(b) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental discharge/slug discharge control plans. The pretreatment coordinator shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The pretreatment coordinator may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the pretreatment coordinator may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

(a) Description of discharge practices, including nonroutine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the pretreatment coordinator of any accidental or slug discharge, as required by § 18-108(6); and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled wastewater. (a) Septic tank waste may be introduced into the POTW only at locations designated by the pretreatment coordinator, and at such times as are established by the pretreatment coordinator. Such waste shall not violate § 18-104 or any other requirements established by Erwin Utilities.

(b) The pretreatment coordinator may require haulers of industrial waste to obtain individual wastewater discharge permits. The pretreatment coordinator may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The

pretreatment coordinator also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(c) Industrial waste haulers may discharge loads only at locations designated by the pretreatment coordinator. No load may be discharged without prior consent of the pretreatment coordinator. The pretreatment coordinator may collect samples of each hauled load to ensure compliance with applicable standards. The pretreatment coordinator may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. (Ord. #2013-225, June 2013)

18-106. Individual wastewater discharge permits. (1) Wastewater analysis. When requested by the pretreatment coordinator, a user must submit information on the nature and characteristics of its wastewater within fifteen (15) days of the request. The pretreatment coordinator is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2) Individual wastewater discharge permit requirement. (a) No significant industrial user shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the pretreatment coordinator, except that a significant industrial user that has filed a timely application pursuant to subsection (3) below may continue to discharge for the time period specified therein.

(b) The pretreatment coordinator may require other users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this chapter.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 18-112 to 18-114. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(3) Individual wastewater discharge permitting: existing connections. Any user required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within thirty

(30) days after said date, apply to the pretreatment coordinator for an individual wastewater discharge permit in accordance with subsection (5) below, and shall not cause or allow discharges to the POTW to continue after forty-five (45) days of the effective date of this chapter except in accordance with an individual wastewater discharge permit issued by the pretreatment coordinator.

(4) Individual wastewater permitting: new connections. Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with subsection (5) below, must be filed at least thirty (30) days prior to the date upon which any discharge will begin or recommence.

(5) Individual wastewater discharge permit application contents.

(a) All users required to obtain an individual wastewater discharge permit must submit a permit application. The pretreatment coordinator may require users to submit all or some of the following information as part of a permit application:

(i) Identifying information.

(A) The name and address of the facility, including the name of the operator and owner.

(B) Contact information, description of activities, facilities, and plant production processes on the premises;

(ii) Environmental permits. A list of any environmental control permits held by or for the facility.

(iii) Description of operations. (A) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(C) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(D) Type and amount of raw materials processed (average and maximum per day);

(E) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(iv) Time and duration of discharges;
(v) The location for monitoring all wastes covered by the permit;

(vi) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 2.2C (Tennessee Rule 1200-4-14-.06(5)).

(vii) Measurement of pollutants. (A) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the pretreatment coordinator, of regulated pollutants in the discharge from each regulated process.

(C) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 18-108(10). Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the pretreatment coordinator or the applicable standards to determine compliance with the standard.

(E) Sampling must be performed in accordance with procedures set out in § 18-108(11).

(viii) Any other information as may be deemed necessary by the pretreatment coordinator to evaluate the permit application.

(b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(6) Application signatories and certifications. (a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in § 18-108(14)(a).

(b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be

submitted to the pretreatment coordinator prior to or together with any reports to be signed by an authorized representative.

(7) Individual wastewater discharge permit decisions. The pretreatment coordinator will evaluate the data furnished by the user and may require additional information. Within fifteen (15) days of receipt of a complete permit application, the pretreatment coordinator will determine whether to issue an individual wastewater discharge permit. The pretreatment coordinator may deny any application for an individual wastewater discharge permit. (Ord. #2013-225, June 2013)

18-107. Individual wastewater discharge permit issuance.

(1) Individual wastewater discharge permit duration. An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the pretreatment coordinator. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Individual wastewater discharge permit contents. An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the pretreatment coordinator to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(a) Individual wastewater discharge permits must contain:

(i) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(ii) A statement that the wastewater discharge permit is nontransferable without prior notification to Erwin Utilities in accordance with subsection (5) below, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(iii) Effluent limits, including best management practices, based on applicable pretreatment standards;

(iv) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

- (vi) Requirements to control slug discharge, if determined by the pretreatment coordinator to be necessary.
- (b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
 - (i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (iii) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - (iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - (vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
 - (vii) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and
 - (viii) Other conditions as deemed appropriate by the pretreatment coordinator to ensure compliance with this chapter, and state and federal laws, rules, and regulations.
- (3) Permit modification. The pretreatment coordinator may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
 - (a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 - (b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
 - (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to Erwin Utilities' POTW, Erwin Utilities personnel, or the receiving waters;

(e) Violation of any terms or conditions of the individual wastewater discharge permit;

(f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to Tennessee Rule 1200-4-14-.13;

(h) To correct typographical or other errors in the individual wastewater discharge permit; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with subsection (4) below.

(4) Individual wastewater discharge permit transfer. Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days' advance notice to the pretreatment coordinator and the pretreatment coordinator approves the individual wastewater discharge permit transfer. The notice to the pretreatment coordinator must include a written certification by the new owner or operator which:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(b) Identifies the specific date on which the transfer is to occur;

(c) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit; and

(d) Includes a provision for providing a copy of the current permit to the new owner/operator.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

(5) Individual wastewater discharge permit revocation. The pretreatment coordinator may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the pretreatment coordinator of significant changes to the wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the pretreatment coordinator of changed conditions pursuant to § 18-108(5) of this chapter;

(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(d) Falsifying self-monitoring reports and certification statements;

(e) Tampering with monitoring equipment;

- (f) Refusing to allow the pretreatment coordinator timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user.

(6) Individual wastewater discharge permit reissuance. A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 18-106(5), a minimum of thirty (30) days prior to the expiration of the user's existing individual wastewater discharge permit.

(7) Regulation of waste received from other jurisdictions. (a) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the pretreatment coordinator shall enter into an intermunicipal agreement with the contributing municipality.

(b) Prior to entering into an agreement required by subsection (7)(a) above, the pretreatment coordinator shall request the following information from the contributing municipality:

- (i) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- (ii) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
- (iii) Such other information as the pretreatment coordinator may deem necessary.

(c) An intermunicipal agreement, as required by subsection (7)(a) above, shall contain the following conditions:

- (i) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in § 18-104(4). The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to Erwin Utilities' ordinance or local limits;

- (ii) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
- (iii) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the pretreatment coordinator; and which of these activities will be conducted jointly by the contributing municipality and the pretreatment coordinator;
- (iv) A requirement for the contributing municipality to provide the pretreatment coordinator with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (v) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (vi) Requirements for monitoring the contributing municipality's discharge;
- (vii) A provision ensuring the pretreatment coordinator access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the pretreatment coordinator; and
- (viii) A provision specifying remedies available for breach of the terms of the intermunicipal agreement. (Ord. #2013-225, June 2013)

18-108. Reporting requirements. (1) Baseline monitoring reports.

(a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the pretreatment coordinator a report which contains the information listed in subsection (1)(b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the pretreatment coordinator a report which contains the information listed in subsection (1)(b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

(i) All information required in § 18-106(5)(a)(i)(A), (5)(a)(ii), (5)(a)(iii)(A), and (5)(a)(vi).

(ii) Measurement of pollutants. (A) The user shall provide the information required in § 18-106(5)(a)(vii)(A) to (5)(a)(vii)(D).

(B) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5), this adjusted limit along with supporting data shall be submitted to the control authority.

(D) Sampling and analysis shall be performed in accordance with subsection (10) below.

(E) The pretreatment coordinator may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(F) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(iii) Compliance certification. A statement, reviewed by the user's authorized representative as defined in § 18-103 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(iv) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such

additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in subsection (2) below.

(v) Signature and report certification. All baseline monitoring reports must be certified in accordance with subsection (14)(a) below and signed by an authorized representative as defined in § 18-103.

(2) Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by subsection (1)(b)(iv) above:

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the pretreatment coordinator no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than nine (9) months elapse between such progress reports to the pretreatment coordinator.

(3) Reports on compliance with categorical pretreatment standard deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the pretreatment coordinator a report containing the information described in § 18-106(5)(a)(vi) and (vii) and subsection (1)(b)(ii) above. For users subject to equivalent mass or concentration limits established in accordance with the procedures in § 18-104(2), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection (14)(a) below. All sampling will be done in conformance with subsection (11) below.

(4) Periodic compliance reports. (a) All significant industrial users must, at a frequency determined by the pretreatment coordinator, submit no less than twice per year (June and December) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the pretreatment coordinator or the pretreatment standard necessary to determine the compliance status of the user.

(b) All periodic compliance reports must be signed and certified in accordance with subsection (14)(a) below.

(c) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(d) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the pretreatment coordinator, using the procedures prescribed in subsection (11) below, the results of this monitoring shall be included in the report.

(5) Reports of changed conditions. Each user must notify the pretreatment coordinator of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least forty-five (45) days before the change.

(a) The pretreatment coordinator may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 18-106(5).

(b) The pretreatment coordinator may issue an individual wastewater discharge permit under § 18-107(7) or modify an existing wastewater discharge permit under § 18-107(4) in response to changed conditions or anticipated changed conditions.

(6) Reports of potential problems. (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the pretreatment coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the pretreatment coordinator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (6)(a) above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

(d) Significant industrial users are required to notify the pretreatment coordinator immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from unpermitted users. All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the pretreatment coordinator as the pretreatment coordinator may require.

(8) Notice of violation/repeat sampling and reporting. If sampling performed by a user indicates a violation, the user must notify the pretreatment coordinator within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the pretreatment coordinator within thirty (30) days after becoming aware of the violation. Resampling by the industrial user is not required if Erwin Utilities performs sampling at the user's facility at least once a month, or if Erwin Utilities performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or Erwin Utilities receives the results of this sampling, or if Erwin Utilities has performed the sampling and analysis in lieu of the industrial user.

(9) Notification of the discharge of hazardous waste. (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of

such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under subsection (5) above. The notification requirement in this subsection does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of subsections (1), (3), and (4) above.

(b) Dischargers are exempt from the requirements of subsection (9)(a) above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the pretreatment coordinator, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other

applicable sampling and analytical procedures, including procedures suggested by the pretreatment coordinator or other parties approved by EPA.

(11) Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

(a) Except as indicated in subsections (11)(b) and (11)(c) below, the user must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the pretreatment coordinator. Where time-proportional composite sampling or grab sampling is authorized by Erwin Utilities, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by Erwin Utilities, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

(b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in subsection (1) and (3) (Tennessee Rule 1200-4-14-.12(2) and (4)), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the pretreatment coordinator may authorize a lower minimum. For the reports required by subsection (4) above (Tennessee Rule 1200-4-14-.12(5) and (8)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

(12) Date of receipt of reports. Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(13) Recordkeeping. Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this

chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 18-104(4)(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or Erwin Utilities, or where the user has been specifically notified of a longer retention period by the pretreatment coordinator.

(14) Certification statements. (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 18-106(7); users submitting baseline monitoring reports under subsection (1)(b)(v) above; users submitting reports on compliance with the categorical pretreatment standard deadlines under subsection (3) above; users submitting periodic compliance reports required by subsection (4)(a) to (4)(c); and users submitting an initial request to forego sampling of a pollutant on the basis of subsection (4)(b)(iv). The following certification statement must be signed by an authorized representative as defined in § 18-103:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. (Ord. #2013-225, June 2013)

18-109. Compliance monitoring. (1) Right of entry; inspection and sampling. The pretreatment coordinator shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow the pretreatment coordinator ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the

user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification. The pretreatment coordinator shall be permitted to enter without delay for the purposes of performing specific responsibilities.

(b) The pretreatment coordinator shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(c) The pretreatment coordinator may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the pretreatment coordinator and shall not be replaced. The costs of clearing such access shall be borne by the user.

(e) Unreasonable delays in allowing the pretreatment coordinator access to the user's premises shall be a violation of this chapter.

(2) Search warrants. If the pretreatment coordinator has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Erwin Utilities designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the pretreatment coordinator may seek issuance of a search warrant from the Unicoi County General Sessions Court of Unicoi County, Tennessee. (Ord. #2013-225, June 2013)

18-110. Confidential information. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the pretreatment coordinator's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the pretreatment coordinator, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made

available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302, shall not be recognized as confidential information and shall be available to the public without restriction. (Ord. #2013-225, June 2013)

18-111. Publication of users in significant noncompliance. (1) The pretreatment coordinator shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by Erwin Utilities, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements.

(2) The term "significant noncompliance" shall be applicable to all significant industrial users (or any other industrial user that violates subsections (1)(c), (1)(d) or (1)(h) below and shall mean:

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in § 18-104;

(b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by § 18-104 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

(c) Any other violation of a pretreatment standard or requirement as defined by § 18-104 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the pretreatment coordinator determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the pretreatment coordinator's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of best management practices, which the pretreatment coordinator determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. #2013-225, June 2013)

18-112. Administrative enforcement remedies. (1) Notification of violation. When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may serve upon that user a written notice of violation. Within thirty (30) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the pretreatment coordinator. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the pretreatment coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(2) Consent orders. The pretreatment coordinator may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to subsections (4) and (5) below and shall be judicially enforceable.

(3) Show cause hearing. The pretreatment coordinator may order a user which has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the pretreatment coordinator and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in § 18-103 and required by § 18-106(7)(a).

A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(4) Compliance orders. When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5) Cease and desist orders. When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the pretreatment coordinator may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(a) Immediately comply with all requirements; and

(b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(6) Administrative penalties. (a) When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may assess a penalty to such user in an amount not to exceed one thousand dollars. Such penalties shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, penalties shall be assessed for each day during the period of violation.

(b) Unpaid penalties and charges shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of three percent (3%) per month. A lien against the user's property shall be sought for unpaid penalties and charges.

(c) Users desiring to dispute such penalties must file a written request for the pretreatment coordinator to reconsider the penalty along with full payment of the penalty amount within thirty (30) days of being notified of the penalty. Where a request has merit, the pretreatment coordinator may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The pretreatment coordinator may add the costs of preparing administrative enforcement actions, such as notices and orders, to the penalty.

(d) Issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the user.

(7) Emergency suspensions. The pretreatment coordinator may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The pretreatment coordinator may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the pretreatment coordinator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The pretreatment coordinator may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the pretreatment coordinator that the period of endangerment has passed, unless the termination proceedings in subsection (8) below are initiated against the user.

(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the pretreatment coordinator prior to the date of any show cause or termination hearing under subsections (3) above or (8) below.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(8) Termination of discharge. In addition to the provisions in § 18-107(5), any user who violates the following conditions is subject to discharge termination:

(a) Violation of individual wastewater discharge permit conditions;

- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (e) Violation of the pretreatment standards in § 18-104.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (3) above why the proposed action should not be taken. Exercise of this option by the pretreatment coordinator shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. #2013-225, June 2013)

18-113. Judicial enforcement remedies. (1) Injunctive relief. When the pretreatment coordinator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the pretreatment coordinator may petition the Unicoi County General Sessions Court through Erwin Utilities' Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The pretreatment coordinator may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(2) Civil penalties. (a) A user who has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to Erwin Utilities for a maximum civil penalty of fifty dollars (\$50.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The pretreatment coordinator may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Erwin Utilities.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(3) Criminal prosecution. (a) A user who willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than fifty dollars (\$50.00) per violation, per day, or imprisonment for not more than five (5) years, or both.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least fifty dollars (\$50.00), or be subject to imprisonment for not more than five (5) years, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than fifty dollars (\$50.00) per violation, per day, or imprisonment for not more than five (5) years, or both.

(d) In the event of a second conviction, a user shall be punished by a fine of not more than fifty dollars (\$50.00) per violation, per day, or imprisonment for not more than five (5) years, or both.

(4) Remedies nonexclusive. The remedies provided for in this chapter are not exclusive. The pretreatment coordinator may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with Erwin Utilities' enforcement response plan. However, the pretreatment coordinator may take other action against any user when the circumstances warrant. Further, the pretreatment coordinator is empowered to take more than one (1) enforcement action against any noncompliant user. (Ord. #2013-225, June 2013, modified)

18-114. Supplemental enforcement action. (1) Penalties for late reports. A penalty of fifty dollars (\$50.00) shall be assessed to any user for each day that a report required by this chapter, a permit or order issued hereunder is late, beginning (5) days after the date the report is due. Actions taken by the pretreatment coordinator to collect late reporting penalties shall not limit the pretreatment coordinator's authority to initiate other enforcement actions that may include penalties for late reporting violations.

(2) Performance bonds. The pretreatment coordinator may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to Erwin Utilities, in a sum not to exceed a value determined by the pretreatment coordinator to be necessary to achieve consistent compliance.

(3) Liability insurance. The pretreatment coordinator may decline to issue or reissue an individual wastewater discharge to any user who has failed to comply with any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(4) Payment of outstanding fees and penalties. The pretreatment coordinator may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous individual wastewater discharge permit, or order issued hereunder.

(5) Water supply severance. Whenever a user has violated or continues to violate any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.

(6) Public nuisances. A violation of any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the pretreatment coordinator. Any person(s) creating a public nuisance shall be subject to the provisions of the Unicoi Municipal Code governing such nuisances, including reimbursing Erwin Utilities for any costs incurred in removing, abating, or remedying said nuisance. (Ord. #2013-225, June 2013, modified)

18-115. Affirmative defenses to discharge violations. (1) Upset.

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (1)(c) below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(i) An upset occurred and the user can identify the cause(s) of the upset;

(ii) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(iii) The user has submitted the following information to the pretreatment coordinator within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(A) A description of the indirect discharge and cause of noncompliance;

(B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) Prohibited discharge standards. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 18-104(1)(a) or the specific prohibitions in § 18-104(1)(b)(iii) to (vii) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge

when Erwin Utilities was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass. (a) For the purposes of this section:

(i) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

(ii) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3)(c) and (3)(d) below.

(c) Bypass notifications.

(i) If a user knows in advance of the need for a bypass, it shall submit prior notice to the pretreatment coordinator, at least ten (10) days before the date of the bypass, if possible.

(ii) A user shall submit oral notice to the pretreatment coordinator of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The pretreatment coordinator may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass. (i) Bypass is prohibited, and the pretreatment coordinator may take an enforcement action against a user for a bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering

judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The user submitted notices as required under subsection (3)(c) above.

(ii) The pretreatment coordinator may approve an anticipated bypass, after considering its adverse effects, if the pretreatment coordinator determines that it will meet the three conditions listed in subsection (3)(d)(i) above.

18-116. Miscellaneous provisions. Pretreatment charges and fees: Erwin Utilities may adopt reasonable fees for reimbursement of costs of setting up and operating Erwin Utilities' pretreatment program, which may include:

(1) Fees for wastewater discharge permit applications, including the cost of processing such applications;

(2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals;

(5) Fees to recover administrative and legal costs (not included in subsection (2) above) associated with the enforcement activity taken by the pretreatment coordinator to address IU noncompliance; and

(6) Other fees as Erwin Utilities may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by Erwin Utilities. (Ord. #2013-225, June 2013)

CHAPTER 2

UNDERGROUND UTILITY LINE SPECIFICATIONS

SECTION

18-201. Underground utility line specifications.

18-201. Underground utility line specifications. 1. All utilities, including gas, electric, sewer, water, telephone and cable seeking to install underground lines within the Town of Unicoi shall obtain a permit from the town recorder prior to digging on any public right-of-way within the Town of Unicoi, with the exception of a service interruption. In the event of a service interruption, a permit shall be obtained from the city recorder on the first work day after the service interruption.

(2) Upon acceptance of the permit, said utility company or contractor shall be responsible for all damages done to property controlled by the Town of Unicoi.

(3) All underground installation following alongside a town street must be two feet (2') from the edge of the pavement.

(4) Any lines installed must be a minimum of three feet (3') in depth, unless a variance is obtained from the Town of Unicoi Planning Commission.

(5) All laterals will be put under any paved road by pushing the pipe or boring underneath the road at such a depth that it does not disturb the road surface. In the event this cannot be accomplished, a waiver shall be obtained from the Town of Unicoi Planning Commission prior to a cut in the road. Either of these events are subject to obtaining a permit as previously described in subsection (1) above.

(6) In the event a road within the Town of Unicoi is cut or when a pipe is installed by pushing or boring underneath the road by said utility or construction company, it shall be responsible for returning the road to the condition it was before construction began. The maintenance of the road cut shall be the responsibility of the said utility or construction company for a period of one year from completion of construction and paving. The said construction company has sixty (60) days to complete the construction unless weather delays have occurred and a waiver has been obtained from the planning commission.

(7) All utility work performed by said utility or construction company on Town of Unicoi rights-of-way shall be responsible for returning the right-of-way to the condition it was before construction began. This event is also subject to obtaining a permit as previously described in subsection (1) above.

(8) The penalty for each violation of this chapter shall be punishable as a Class C misdemeanor, with a fine of up to fifty dollars (\$50.00) per day of violation plus Town of Unicoi Municipal Court costs plus any additional penalties owed for late payment of costs. (Ord. #2013-223, Feb. 2013)

TITLE 19

ELECTRICITY AND GAS¹

[RESERVED FOR FUTURE USE]

¹Ord. #99-44, July 1999, grants to the Unicoi County Utility District the exclusive right and franchise to construct and maintain gas pipes and gas mains in the town for the distribution and sale of gas in the town. Ord. #99-44 is available in the office of the recorder.

Municipal code reference

Underground utility line specifications: § 18-201.

TITLE 20

MISCELLANEOUS

[RESERVED FOR FUTURE USE]

ORDINANCE NO. 2022-302

AN ORDINANCE ADOPTING AND ENACTING SUPPLEMENTAL AND REPLACEMENT PAGES FOR THE MUNICIPAL CODE OF THE TOWN OF UNICOI, TENNESSEE.

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

Section 1. Ordinances codified. The supplemental and replacement pages contained in the following:

- § 1-203, Ord. #2020-281 (Sept. 2021)
- § 1-204, Ord #2021-289 (June 2021)
- § 3-301, Ord. #2021-295 (July 2021)
- § 6-101, Ord 2021-288 (Feb 2021)
- § 6-102, Ord. #2021-292 (July 2021)
- § 12-101, Ord. #2021-295 (July 2021)
- §§12-102--12-104, Ord. #2021-287 (June 2021)
- §§ 13-211 and 13-212, Ord. #2021-299 (Nov. 2021)
- § 14-101, Ord. #2021-288 (June 2021)
- § 14-104, Ord. #2021-295 (July 2021)
- § 14-106, Ord. #2022-301 (Feb. 2022), and one city modification
- § 14-111, Ord. #2021-295 (July 2021)
- § 14-301, Ord. #2021-288 (June 2021)
- § 14-303, Ord. #2021-295 (July 2021)
- § 15-301, Ord. #2021-295 (July 2021)

To the Town of Unicoi Municipal Code, hereinafter referred to as the "supplement," are incorporated by reference as if fully set out herein and are ordained and adopted as part of the Town of Unicoi Municipal Code. This supplement includes revisions required to the municipal code when considering ordinances and modifications made by the Town of Unicoi. Code sections affected by these modifications contain citations, when required, at the end of the code section.

Section 2. Continuation of existing provisions. Insofar as the provisions of the supplement are the same as those of ordinances existing and in force on its effective date, the provisions shall be considered to be continuations thereof and not as new enactments.

Section 3. Penalty clause. Unless otherwise specified, wherever in the supplement, including any codes and ordinances adopted by reference, any act is prohibited or is made or declared to be a civil offense, or wherever the doing of any act is required or the failure to do any act is declared to be a civil offense, the violation of any such provision 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 supplement or the municipal code or other applicable law. In any place in the supplement the term "it shall be a misdemeanor" or "it shall be an offense" or "it shall be unlawful" or similar terms appears in the context of a penalty provision of this supplement, it shall mean "it shall be a civil offense." Anytime the word "fine" or similar term appears in the context of a penalty provision of this supplement, it shall mean "a civil penalty."¹

When a civil penalty is imposed on any person for violating any provision of the supplement 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 civil penalty is discharged by payment, or until such person, being credited with such sum as may be prescribed for each day's hard labor, has fully discharged said penalty.

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

Section 4. Severability clause. Each section, subsection, paragraph, sentence, and clause of the supplement, including any codes and ordinances adopted by reference, are hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence, or clause in the supplement shall not affect the validity of any other portion, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted therefrom.

Section 5. Construction of conflicting provisions. Where any provision of the supplement is in conflict with any other provision of the supplement or municipal code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 6. Code available for public use. One copy of the supplement shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 7. Date of effect. This supplement, shall take effect from and after final passage, the public welfare requiring it, and shall be effective on and after that date.

¹State law reference

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

Voting by the Board, as follows, on March 21st, 2022:

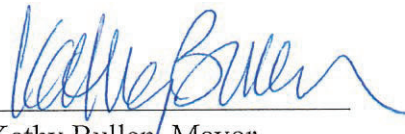
First Reading:

	<u>Yes</u>	<u>No</u>
Alderman Bennett	X	—
Alderman Radford	X	—
Alderman Ray	X	—
Vice Mayor Cooper	X	—
Mayor Bullen	X	—

Voting by the Board, as follows, on April 18th, 2022:

Second Reading and Public Hearing:

	<u>Yes</u>	<u>No</u>
Alderman Bennett	X	—
Alderman Radford	X	—
Alderman Ray	X	—
Vice Mayor Cooper	X	—
Mayor Bullen	X	—


Kathy Bullen, Mayor

ATTEST:


Deborah B. Kessler, City Recorder

ORDINANCE NO 2020-280**AN ORDINANCE ADOPTING AND ENACTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF UNICOI, TENNESSEE.**

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

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

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

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

Section 1. Ordinances codified. The ordinances of the Town of Unicoi 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 "Unicoi 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 town or authorizing the issuance of any bonds or other evidence of said town's indebtedness; any appropriation ordinance or ordinance providing for the levy of taxes or any budget ordinance; any contract or obligation assumed by or in favor of said town; any ordinance establishing 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 town; 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 town.

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

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

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

Section 6. Severability clause. Each section, subsection, paragraph, sentence, and clause of the municipal code, including the codes and ordinances

¹State law reference

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

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

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

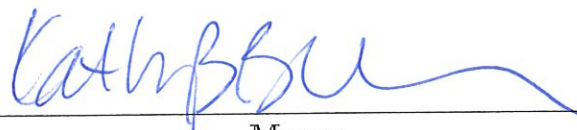
Section 8. Construction of conflicting provisions. Where any provision of the municipal code is in conflict with any other provision in said code, the provision which establishes the higher standard for the promotion and protection of the public health, safety, and welfare shall prevail.

Section 9. Code available for public use. A copy of the municipal code shall be kept available in the recorder's office for public use and inspection at all reasonable times.

Section 10. Date of effect. This ordinance shall take effect from and after its final passage, the public welfare requiring it, and the municipal code, including all the codes and ordinances therein adopted by reference, shall be effective on and after that date.

Passed 1st reading, November 16, 2020.

Passed 2nd reading, December 21, 2020.

A handwritten signature in blue ink, appearing to read "Kathryn B. U.", written over a horizontal line.

Mayor

A handwritten signature in blue ink, appearing to read "Deborah B. Kessler", written over a horizontal line.

Recorder